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NORTH AMERICAN WETLANDS CONSERVATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2322 AND H.R. 2587

TWO BILLS THAT ARE DESIGNED TO IMPLEMENT U.S. OBLIGATIONS UNDER THE NORTH AMERICAN WATERFOWL MANAGEMENT PLAN

JULY 25, 1989

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CONTENTS

Page
Hearing held July 25, 1989 1

Statement of:

- Bach, Maryanne, deputy assistant secretary for fish and wildlife and parks, Department of the Interior 16
  - Prepared statement 38
- Bateman, Hon. Herbert H., a U.S. Representative from Virginia 2
- Collins, Charles H., executive director, National Fish and Wildlife Foundation (prepared statement) 93
- Conte, Hon. Silvio, a U.S. Representative from Massachusetts 6
- Davis, Hon. Robert W., a U.S. Representative from Michigan 2
- Dingell, Hon. John, a U.S. Representative from Michigan 11
  - Prepared statement 14
- Dyson, Hon. Roy, a U.S. Representative from Maryland 5
  - Prepared statement 6
- Glass, James H., president, The Wildlife Legislative Fund of America 36
- Goldman-Carter, Jan, counsel, National Wildlife Federation 20
  - Prepared statement 51
- Larson, Joseph S., director, Environmental Institute, University of Massachusetts at Amherst 34
- Massengale, Thomas, vice president for major program development, The Nature Conservancy 25
  - Prepared statement 85
- Peterson, R. Max, executive vice president, International Association of Fish and Wildlife Agencies 19
  - Prepared statement 47
- Schneider, Hon. Claudine, a U.S. Representative from Rhode Island 6
- Schwalenberg, Dewey, executive director, Native American Fish & Wildlife Society 102
- Smolko, John F., Jr., director, Federal Relations, Ducks Unlimited, Inc. 23
  - Prepared statement 75
- Studds, Hon. Gerry E., a U.S. Representative from Massachusetts, and Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment 1
- Young, Hon. Don, a U.S. Representative from Alaska 5

Additional material supplied:

- Massengale, Thomas M., (The Nature Conservancy): Responses to questions submitted by Hon. Gerry E. Studds 113
- Peterson, R. Max, (International Association of Fish and Wildlife Agencies): Responses to questions submitted by Hon. Gerry E. Studds 110
- Smolko, John F., Jr., (Ducks Unlimited): Responses to questions submitted by Hon. Gerry E. Studds 117

Communications submitted:

- Harrington, Brian A., (Manomet Bird Observatory): Letter of 24 July 1989, to Hon. Gerry E. Studds 91
- Williamson, Lonnie L. (Wildlife Management Institute): Letter of 26 July 1989, to Hon. Gerry E. Studds 89

H.R. 2322 AND H.R. 2587, THE NORTH AMERICAN WETLANDS CONSERVATION ACT

TUESDAY, JULY 25, 1989

House of Representatives, Subcommittee on Fisheries
and Wildlife Conservation and the Environment,
Committee on Merchant Marine and Fisheries
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:15 a.m., in Room 1334, Longworth House Office Building, Hon. Gerry E. Studds (chairman of the subcommittee) presiding.

Members present: Representatives Studds, Hughes, Bosco, Pallone, Unsoeld, Dyson, Young, Schneider, Bateman, and Coble.

Staff present: Gina DeFerrari, Bill Woodward, Lisa Murray, Su Sponaugle, Joyce Sacco, Sue Waldron, and Tom Melius.

OPENING STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. Studds. The Subcommittee meets this morning to consider two bills that are identical in name and similar in purpose, H.R. 2322, introduced by Mr. Davis, and H.R. 2587, sponsored by Mr. Conte and cosponsored by Mr. Davis.

Both bills are designed to implement U.S. obligations under the North American Waterfowl Management Plan. Both would authorize funds to carry out conservation projects that would protect the habitat of waterfowl and other migratory birds in Canada and the United States. Both rely on cooperation not only between the U.S. and Canadian Governments, but among State Governments, conservation groups, sportsmen, and private landholders, as well.

The North American Waterfowl Management Plan is the largest and most ambitious international wetlands protection program ever undertaken. Its goal is to virtually double waterfowl populations by the year 2000, thereby restoring them to the levels of 15 years ago.

To achieve this, the plan calls for the protection, restoration, and enhancement of more than 5.5 million acres of wetlands in the U.S. and Canada combined. The price tag of $1.5 billion over 15 years is to be met through a combination of Government appropriations, private contributions, and under the Davis and Conte bills, by tapping the interest on excise tax receipts from the sale of sporting arms and ammunition.

The decline in waterfowl populations that led both to the plan and to the legislation we will consider today is part of the larger problem of the loss of wetlands in our country and our continent. One way to reverse that loss is to acquire wetlands or conservation easements. Another is to use the regulatory powers of our Government to avoid wetlands losses that can and should be avoided.

I hope we will explore both options today. Finally, let me just observe that we will have with us this morning the entire House delegation to the Migratory Bird Commission. With this kind of guidance and support, I am certain we will be able to act wisely and promptly.

I must confess to being somewhat disappointed. Silvio, I delayed my own arrival a few minutes, giving you time to don whatever costume you chose, and I am somewhat disappointed. I had a backup here just in case you arrived in your usual fashion, but you look just like the congressman. I thought you would come disguised as a person. Welcome. It is nice to have you back.

Mr. Conte. Thank you, Mr. Chairman. You are beautiful. I left my feathers home.

Mr. Studds. Excuse me, Silvio. I am just overwhelmed both by your seniority and by your geography, but I do owe it to the Members of the Committee to have an opening statement and to greet you in their own fashion first, if I may. The gentleman from Virginia.

OPENING STATEMENT OF HON. HERBERT H. BATEMAN, A U.S. REPRESENTATIVE FROM VIRGINIA

Mr. Bateman. My only opening statement would be to welcome the distinguished gentleman from Massachusetts and ask unanimous consent that the statements of my colleagues, Mr. Davis of Michigan and Mr. Young of Alaska, be printed in the record.

Mr. Studds. Without objection.

[The statements of Mr. Davis and Mr. Young follow.]

Statement of Hon. Robert W. Davis, a U.S. Representative from Michigan

Mr. Chairman, on May 9, 1989 I introduced legislation (H.R. 2322) along with the Hon. Walter B. Jones, the Hon. Don Young, the Hon. Arlan Strangeland, the Hon. Lindsay Thomas, and the Hon. Porter Goss to further the implementation of the North American Waterfowl Management Plan.

The average number of ducks in North America in recent years has been lower than any comparable period on record. The number of breeding ducks currently averages only a little more than half the number present in the 1970s. The key factor in the alarming decline in our continent's waterfowl population is the continuing destruction of wetlands. In short, existing public and private wetland protection efforts have been inadequate.

The North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, outlines a far-reaching joint effort to identify the major management problems, establish objectives and propose a series of strategies to protect waterfowl habitat, restore declining waterfowl populations, and enhance waterfowl research and management.

The plan extends to the year 2000 and will be implemented through action plans developed at the National, Flyway, Provincial, Territorial, and State levels, which will then set out specific management details required for waterfowl conservation in both countries.

Successful rebuilding of waterfowl numbers will require the restoration, protection and improvement of almost six million acres of habitat in six priority ranges in the United States and Canada at an estimated cost of over $1.5 billion. These areas are essential for the perpetuation of North American waterfowl and require immediate action. They are: Prairie Potholes and Park lands, Lower Mississippi Valley, the Gulf Coast, California's Central Valley, Great Lakes-St. Lawrence Lowlands, and the Atlantic coast.

The North American waterfowl plan when adopted in 1986, provided the framework addressing this habitat need; unfortunately the plan does not address funding.

Mr. Chairman, H.R. 2322 provides a commitment for some of that funding. It does so by providing a structure that encourages partnerships among public agencies and private interests to protect, enhance, restore and manage habitats for migratory birds and other fish and wildlife in North America. While waterfowl are the most visible and well-known wildlife species that rely on wetlands, they aren't the only beneficiaries of the Plan. Shorebirds, upland game birds and even endangered species use wetlands. A myriad of mammals, reptiles, amphibians, invertebrates, fish and plants are a part of the wetlands. Saving wetlands for ducks also protects these areas for hundreds of other species.

In planning for the future of waterfowl, we must reflect upon the past, consider the present, and recognize and appreciate the tremendous efforts that have been made since the turn of the century on behalf of waterfowl conservation by many organizations. Millions of dollars have been expended to preserve and manage waterfowl habitat across the continent. The acquisitions made by the Migratory Bird Conservation Commission have spearheaded the Federal effort into wetland conservation. State and local agencies along with Ducks Unlimited and the Nature Conservancy have led the fight on the local level for wetland protection.

We have carefully drafted this legislation to avoid any conflict with the actions of the Migratory Bird Commission which have been so successful in addressing the Federal wetlands conservation needs. My colleague from Michigan, Mr. Dingell, and the Gentleman from Massachusetts, Mr. Conte, who are the Commissioners on behalf of the House of Representatives have provided an immense amount of guidance and support to those efforts and I look forward to working with them in further developing the concepts which are contained in H.R. 2322 in order to make it, or some alternative, more efficient in furthering the goals of the plan.

Mr. Chairman, this legislation, summarized at the end of this statement, starts us on the road to protecting the habitats needed to bring waterfowl populations back to the level that we once enjoyed. It's an important step in coordinating the cooperation and financial contributions of all interested parties, both public and private.

The key to the success of this undertaking will be the participation not only of the national governments of the United States, Canada and Mexico, but also the involvement of state, provincial, territorial and local governments, and private individuals, conservation organizations, and businesses.

SUMMARY

THE NORTH AMERICAN WETLANDS CONSERVATION ACT

Selection and Funding of Wetlands Conservation Projects in the United States, Canada and Mexico

The Act authorizes the Secretary of the Interior to match Federal funds with non-Federal funds for wetland conservation projects (acquisition, management, enhancement or restoration of lands and waters administered for long-term conservation) in Canada, Mexico and the United States.

A nine-member North American Wetlands Conservation Commission is established to recommend wetlands conservation projects to the Secretary for Federal funding under the Act. Acquisition by the Secretary of lands and waters under the Migratory Bird Conservation Fund, Land and Water Conservation Fund or other laws would not be subject to this process or otherwise affected by the Act.

The Commission consists of the Director of the U.S. Fish and Wildlife Service, the Secretary to the Board of the National Fish and Wildlife Foundation and seven individuals appointed by the Secretary. Four of these individuals must live in different flyways and be directors of state fish and wildlife agencies directly responsible for conservation of fish, wildlife, and wetlands. The other three must represent different charitable, non-profit organizations which are actively participating in implementation of the Plan.

The Commission's recommendations on funding of wetlands conservation projects are to be based on (1) the availability of sufficient non-Federal monies to carry out any project; (2) the extent to which any project represents a partnership among public agencies and private entities; (3) the consistency of any project in the United

States with the National Wetlands Priority Conservation Plan developed under the Emergency Wetlands Resources Act; (4) the substantiality of the character and design of any project; (5) the extent to which any project fulfills the purposes of the Act and the goals of the Plan; and (6) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico or the United States, which are participating actively in carrying out any projects under the Act of the Plan.

The Secretary in consultation with the Migratory Bird Conservation Commission is required to approve the Federal funding available under the Act for wetlands conservation projects in the order of priority recommended by the Commission unless the Secretary finds that any of those projects should not have been recommended based on consideration of the factors listed above. If the Secretary makes such a finding, the Secretary is required to provide the Commission and Congress with a written justification.

Conditions Relating to Wetlands Conservation Projects

The Secretary may convey any lands and waters purchased with Federal funds to a state or another entity approved by a state. Any lands and water acquired, enhanced, managed or restored with Federal funds cannot be converted for uses other than conservation without the approval of the Secretary. If lands and waters purchased with Federal funds are not conveyed, they must be included in the National Wildlife Refuge System.

The Secretary may provide Federal funds to public agencies in Canada or Mexico or entities approved by these agencies to assist in carrying out approved wetlands conservation projects.

Funding of Wetlands Conservation Projects

Funds to carry out wetlands conservation projects are provided as follows:

1. The interest earned through short-term investment of any Federal excise tax revenues in the Pittman-Robertson fund that are not needed to meet a current year's withdrawals would be available to the Secretary under the Act (about $10 million annually). None of the fund's excise tax revenues (the fund's capital) would be allowed to be used by the Secretary. Thus, the Act would have no effect on the amount of the fund apportioned to any state or territory. Once the goals of the Plan are achieved, the interest earned each year from short-term investments would become available for apportionment to the states.
2. The penalties or fines, or funds from forfeitures or property under the Migratory Bird Treaty Act are authorized to be appropriated to carry out the Act (about $1 million annually).
3. In addition to the amounts above, the Act authorizes appropriation of $15 million annually to the Department of the Interior to carry out wetlands conservation projects.

Allocation of Funds

Up to 70 percent, but not less than 50 percent, of each year's funds must be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico. Up to 4 percent of this amount may be used for administering the Act. The Federal money for projects in Canada or Mexico must be matched by at least 25 percent non-Federal money. The non-Federal share may not be derived from Federal grant programs.

At least 30 percent, but not more than 50 percent, of each year's funds must be allocated by the Secretary to carry out approved wetlands conservation projects in the United States. The Federal money to carry out approved wetlands conservation projects in the United States must be matched by at least 50 percent non-Federal money. The Federal share may be 100 percent if the project is conducted solely on Federal lands and waters or involves the acquisition of inholdings within such lands and waters. The non-Federal share may not be derived from the Federal grant programs.

Refuge Revenue Sharing

The Secretary is not allowed to acquire lands and waters for inclusion in the National Wildlife Refuge System with the funds under the Act unless full funding is provided under the Refuge Revenue Sharing Act for payments in lieu of taxes to counties with U.S. Fish and Wildlife Service lands.

Restoration, Protection and Enhancement of Wetlands and Migratory Bird Habitat on Federal Lands

Each Federal agency responsible for acquiring, managing or disposing of Federal lands and waters is required, consistent with the agency's mission, to cooperate with the Director of the U.S. Fish and Wildlife Service to restore, protect and enhance the wetland ecosystems and other waterfowl and migratory bird habitats within its lands and waters.

Reports to Congress

The Secretary is required to report to Congress every two years with an assessment of the following:

(1) The estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected or enhanced during such two-year period by Federal, state and local agencies and private entities in the United States, Canada and Mexico; and

(2) Trends in the population size and distribution of North American migratory birds.

The Secretary also is required to report annually to Congress concerning the status of wetlands conservation projects, including an accounting of Federal, state and private expenditures by Canadian and Mexican sources to carry out these projects.

Revision to the Plan

In 1991 and every five years thereafter, the Secretary is required, with the appropriate officials in Canada and Mexico, to revise the goals and other elements of the Plan in accordance with the information required above and with the other provisions of the Act.

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA

Mr. Chairman, I look forward to hearing the testimony being presented today on conservation of waterfowl and their habitat.

As a hunter, I have long been concerned that we aren't doing enough to ensure that waterfowl habitat is maintained. Three years ago, former Secretary Don Hodel embarked on an ambitious plan with his Canadian colleagues to try to solve the problem. The U.S. and Canada put in place the North American Waterfowl Management Plan, with the goal of restoring the North American waterfowl population to its former levels. Like every plan, this one needs funding. Our colleague, Bob Davis, has found a creative way to provide that funding and I think we should all get behind his bill.

I do want to add one note of caution. I understand that some are looking at this bill as a vehicle to make other changes in law, especially as regards preservation of wetlands in general. While I believe that wetlands conservation is needed, we have to be careful how we accomplish it. There is a lot of talk about the "no net loss" policy; unfortunately, no one has yet defined that term. Coming from a State that is primarily composed of wetlands, and one where loss of habitat is not a problem for waterfowl, I think we need to look carefully at this policy. We have to make sure it is carefully crafted to meet local, state, and regional problems. So, while I support this bill, you can be sure that I am going to be very cautious about amendments added to it.

Again, Mr. Chairman, I think Bob Davis should be congratulated for his work and I look forward to seeing his efforts rewarded with passage of his bill. Thank you.

Mr. STUDDS. The gentleman from Maryland.

OPENING STATEMENT OF THE HON. ROY DYSON, A U.S. REPRESENTATIVE FROM MARYLAND

Mr. DYSON. Mr. Chairman, I guess I will keep in mind what my colleague from Virginia has done and ask unanimous consent to have my statement in the record. I am very proud to welcome a constituent of mine here. I do not know that the audience knows, but the gentleman was able to get a very exclusive piece of property in St. Mary's County, my home county. He will be right on the Bay in some of the prettiest wetlands in the whole State, and I hope that he will be an ardent supporter of that as a part-time resident of St. Mary's County. I would like to welcome him here, and Mr. Chairman, I am also glad to see the introduction of these bills.

[The statement of Mr. Dyson follows.]

STATEMENT OF HON. ROY DYSON, A U.S. REPRESENTATIVE FROM MARYLAND

Thank you Mr. Chairman. I am happy to see the introduction of these wetlands conservation bills. The North American Waterfowl Population has been declining at a frightening rate. In 1980 there were 62 million ducks in North America. Now, there is less than half that amount. The cause for much of this decline has been the loss of wetlands, which are the habitat for waterfowl. If we are to see a resurgence in our duck population, we must conserve what wetlands we have left.

My State of Maryland stands to gain by passage of the North American Wetlands Conservation Act for two reasons. First, this Act will provide much needed Federal support for the preservation and management of Maryland's 137,500 acres of eligible wetlands. These are a breeding ground for wood ducks and mallards. And second, an increase in the duck population would bring back the Eastern Shore's hunting economy. Maryland is a principal stopover on the Atlantic Flyway for Canada geese, which has turned hunting into a multi-million dollar business. I hope that through this legislation we can increase both our waterfowl population and our economy.

I would also like to note the strong support of Maryland for Mr. Davis' version of this Act. His version provides for substantial state input into the funding allocation process, which is important if we are to have Federal-state cooperation to prevent wetlands loss.

Mr. Chairman, I would like to thank you for calling this hearing, and I look forward to swift passage of this legislation.

Mr. STUDDS. The gentlelady from Rhode Island. Notwithstanding this tarnishing of the gentleman's hitherto impeccable reputation by the remarks of the gentleman from Maryland, does the gentlelady from Rhode Island wish to welcome her colleague profusely?

OPENING STATEMENT OF THE HON. CLAUDINE SCHNEIDER, A U.S. REPRESENTATIVE FROM RHODE ISLAND

Ms. SCHNEIDER. I am always delighted to welcome my colleague from the North, and certainly the proposal that we have about us today, about the wetlands, is one that I share his enthusiasm for, and you can be assured that this Committee, if I can speak for some of us at least, will be anxious to assist you in your endeavor.

Mr. STUDDS. Silvio, it is always a wonder for me, as you know, to have someone although from Massachusetts as far away as it is physically possible to be from the ocean and still be as distinguished as you are. Welcome.

STATEMENT OF THE HON. SILVIO CONTE, A U.S. REPRESENTATIVE FROM MASSACHUSETTS

Mr. CONTE. Thank you very, very much, Mr. Chairman, and Members of the Committee, for your kind and thoughtful remarks. I am sorry that I am out of uniform this morning. I forgot my feathers. I got up too early this morning; otherwise I would have worn them. I am going to have to run because we have three appropriation bills up before our Full Committee. We started at 9:30 this morning, and we are really trying to hammer these bills out for the floor of the House.

I want to thank you, Mr. Chairman, for this opportunity to testify for moving forward with this important environmental issue, the implementation of the North American Waterfowl Management Plan. At the outset, I want to thank the Members who have cosponsored H.R. 2587. First and foremost, my good friend and colleague on the Migratory Bird Commission, John Dingell. I have worked with John many, many years on many issues, and I count him as one of my closest friends.

He is a real champion of wildlife issues. And Walter Jones, the Chairman of the Full Committee, and of course, the Ranking Member of this Subcommittee, Bob Davis; and Congressman Weldon and Thomas who have a great interest in this legislation. These Members and this Committee recognize, I think, the driving force behind this legislation: disappearing wetlands and a severe decline in our waterfowl population.

And for me personally I view it as a tragedy and a disaster with far-reaching and possibly irreversible consequences. And my gut feeling is supported by a disturbing litany of statistics.

As a member of the Migratory Bird Commission for the last 25 years, I have worked with John Dingell and others to reverse the massive destruction of wetlands, but sometimes it is like trying to bag a Canadian goose with a squirt gun. Let me tell you what I mean. Since I have been on the Commission, we have spent $486 million to protect 2.4 million acres in fee and easement.

That is 50.5 million duck stamps bought by hunters and conservationists in this country. The effort by the Commission and by the sportsmen is commendable and significant, but in the final analysis progress is very slow. During that same period, during my tenure on the Commission, the wetland loss totaled 8.7 million acres. That is an alarming loss of 350,000 acres per year for the lower 48 states.

And you can be sure that these losses in wetland habitat have a devastating and a lasting impact on waterfowl, particularly in the breeding and the wintering areas. Dramatic losses in these locations can be directly linked to the recent decline in many species of migratory birds who depend on the delicate systems.

For example, national populations of several duck species are down almost 50 percent from the 1970's and along the Atlantic coast, black ducks have declined steadily over the last 30 years.

This year's waterfowl populations are projected to be the lowest in history, even lower than the record set in 1985. We are now at the lowest level of all time. This downward trend in North America's waterfowl population is important and deserves special attention for two reasons. First, waterfowl are readily visible indicators of the environmental crisis. They rely heavily on wetland ecosystems and act as barometers indicating environmental decay.

Second, waterfowl are the most prominent and economically important group of migratory birds in North America, generating a direct expenditure of several billion dollars annually.

To deal with this international environmental problem, the United States and Canada signed in May of 1986 the North American Waterfowl Management Plan, a comprehensive approach to the problems of declining waterfowl populations and the destruction of wetlands. The plan stresses international cooperation, a unique public-private sector partnership, and it outlines an ambitious program of habitat acquisition, restoration and development to achieve waterfowl population goals.

Basically the North American Waterfowl Plan provides the missing link to the preservation of wetlands complementing and enhancing work already underway. The missing link is harnessing the funds and support of the private sector for the wetlands conservation for the first time providing United States support for wetland protection in Canada.

To implement, I should say, the principles and the goals of the plan, I introduced H.R. 2587, the subject of this hearing. I want to congratulate Senator Mitchell and Congressman Davis for sponsoring similar bills, but let me take this opportunity to explain why the Conte-Dingell bill approach is preferable.

The development of this legislation was guided by three broad principles which formed the foundation and the justifications for the bill. First, the bill provides the resources necessary to implement the plan. Investment proceeds from the Pittman-Robertson Fund are made available, and the bill authorizes an additional $15 million to be appropriated for activities related to the plan.

Second, the bill provides a coherent, efficient framework for implementing projects under the plan. In this process, an advisory committee screens and evaluates each project slated for funding and those recommendations are then submitted to the Migratory Bird Conservation Commission. This two-step process ensures that each project is closely examined and that this effort is coordinated with the activities now underway by the Migratory Bird Commission.

For several years now, the Commission has been working on projects to implement the plan, and this process of funneling all North American waterfowl projects through one panel will increase coordination and reduce overlap and duplication.

Moreover, the Migratory Bird Commission has over 50 years of experience in the business of preserving and restoring wetlands for the conservation of waterfowl population. Third, this bill provides for state, private and international input into the process of implementing the plan. The North American Waterfowl Plan is not just another Federal program. It is an international cooperative effort that relies heavily on the financial and professional assistance of private organizations.

The plan assumes that private groups will contribute sizable sums to the implementation of the plan, and their active participation in the process is essential to a successful program. For this reason, the advisory committee which reviews all project fundings under this bill is composed of three representatives from non-profit groups involved with implementing the plan.

A representative of the National Fish and Wildlife Foundation is also a member of the advisory committee. And most importantly, the chairman of the advisory committee serves as an ex-officio voting member of the Migratory Bird Commission for the purpose of considering these projects.

This direct and active participation in the decision making process by these non-profit programs will separate it from other Federal conservation programs. In addition, the states are represented on the advisory committee by agency heads from four different flyways, and the Secretary is encouraged to include as an ex-officio, non-voting members representatives of Canada and Mexico.

This, Mr. Chairman and Members of the Committee, is a well-balanced and a diverse group, and I think it should help to enhance the implementation of the plan. The advisory committee approach is supported by key private sector groups involved with implementing the plan including the Nature Conservancy and the National Fish and Wildlife Foundation. In addition, the Interior Department supports a central role for the Migratory Bird Commission. I feel strongly that this structure is necessary for an efficient and successful implementation of the North American Plan.

Mr. Chairman, in a speech delivered last month, President Bush was clear and unambiguous about his position on this issue. After referring to the Mitchell Bill and the Conte-Dingell Bill, the President said quote, "The basic thrust of the legislation is sound. I look forward to signing a bill to conserve North American wetlands this year."

This hearing is a first step in the House to meeting that challenge. I look forward to working with you to put a bill on the President's desk for him to sign so that we can get back to work on the ambitious tasks that lie ahead of us. Thank you again for this opportunity and for your leadership on this most important environmental issue.

Mr. STUDDS. Thanks, Silvio. If Chairman Dingell does not mind, Mr. Conte has asked permission to have two quick questions and then to proceed to the Appropriations Committee. We in Massachusetts do not like the idea of the Appropriations Committee proceeding for one minute in his absence, and I would like him to go back there. Did I understand you, Silvio, that the Administration was clear and unambiguous about something?

Mr. CONTE. Yes, sir, on this bill.

Mr. STUDDS. I can hardly wait. It will be a tribute to you if you can elicit that from them. Very quickly, besides what you mentioned in your testimony, are there other differences between your bill and Mr. Davis' that you would like to explain?

Mr. CONTE. Well, I think, first, the Conte-Dingell provides that all projects be recommended by the advisory committee and then approved by the Migratory Bird Commission. The Davis bill sets up a new duplicate commission using the same membership structure. The Conte-Dingell approach avoids duplication and provides effective coordination and enhances congressional input and increases accountability to the Congress.

Secondly, the Conte-Dingell bill also gives the chairman of the advisory committee a vote on the Migratory Bird Commission meetings when those projects are considered. This approach actually gives these conservation groups a greater role in the approval process. The Davis Mitchell bill contains a provision which restricts land acquisition until the refuge revenue sharing account is fully funded.

The Conte-Dingell bill strikes this language. Instead, puts in cold hard cash into the fund by funneling the Fish and Wildlife Service law enforcement fees and penalties into the account, and incidentally, the Appropriations Committee, which I sit on, provided an extra million dollars above the President's request for refuge revenue sharing, and the fiscal year 1990 level is 42 percent now over 1986 level, and I think that is some progress.

And the Conte-Dingell bill restricts the transfer of acquired wetland areas out of the National Wildlife Refuge System. Before any transfer, the Secretary must make a finding that lands conveyed can be better managed if they are not retained in the National Wildlife Refuge System, and there should be a presumption of Federal ownership.

The Conte-Dingell bill also differs from the Davis bill, we strike the member from the Transportation agency from the commission. At first, when they were put in to substitute for Commerce, Transportation, it was done because it was thought that the highway system would affect the ecosystem and affect the wetland areas and all that. And our bill now supplements the Transportation member with a member from the EPA administration.

There are other significant changes that were made, less significant I should say, and we could submit those to the Committee.

Mr. STUDDS. Very good. And very quickly, if I may, the major difference as I see it between the two bills is that your bill assigns the principal decision-making role to the Migratory Bird Commission. Davis assigns it to a new commission including representatives from the States and private organizations. His argument, of course, is that if you are going to ask those organizations to contribute to the fund, we should give them a role in determining how the money is spent. What is your counter to that contention on his part?

Mr. CONTE. Well, in my opinion our bill gives these groups more access to the decision making process than does the Mitchell Davis approach. First, the advisory committee has the same representation as the Mitchell Davis bill, commission. And that is where the real decision will be made so there is no argument there.

Realistically, the Migratory Bird Commission will, in practice, take the recommendations of the advisory committee. Second, our bill goes further to give these groups a place at the table where the final decision is to be made. The chairman of the advisory committee is made a voting member of the Migratory Bird Commission for the purposes of considering these projects.

Under the Davis approach, the Secretary alone makes the final decision, and I do not think I want that. And most importantly, our bill is supported by the very groups who are being asked to provide the money. The Nature Conservancy and the Fish and Wildlife Foundation support the Conte-Dingell bill.

Mr. STUDDS. I thank you, Silvio. Unless there are Members who wish to ask Mr. Conte a question, we are going to thank you so much for your leadership in this area and ask you if you will come back another time and demonstrate each one of these things which were waiting for you just in case you came in costume, and send you on your way. Thank you, Silvio. Go save what is left of our State.

Mr. CONTE. Thank you.

Mr. STUDDS. And now turning to a gentleman whose career has seen many, many heights in this Congress, but frankly I do not think his eminence has ever been greater than when he chaired this Subcommittee. The gentleman from Michigan, the former Chairman of this very Subcommittee, Mr. Dingell. Welcome, John.

STATEMENT OF THE HON. JOHN DINGELL, A U.S. REPRESENTATIVE FROM MICHIGAN

Mr. DINGELL. Mr. Chairman, it is a great pleasure to be back. As you were so kind to mention, I had the privilege of serving as Member of this Committee, Member of this Subcommittee and Chairman of this Subcommittee for a number of years, and I will tell you that those were the happiest days of my life. And as you recall, Mr. Chairman, during those days, we had both a huge void in legislative and other needs in the area of conservation and the environment, and second of all, we had a Subcommittee here and a financial situation inside the country which enabled us to do some extraordinary things in terms of legislation.

In this room and in this Subcommittee were written the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Refuge Administration Act, and legislation to increase the land purchases for the refuge system.

The legislation establishing the Refuge Loan Fund was written in this room and a number of other pieces of legislation were written to move the cause of fish and wildlife and conservation forward. Those were proud and happy days, and I am proud not only of the work that I did, but also the work that you and the others of our colleagues who participated in those matters, including that wonderful gentleman, Herb Bonner, whose picture is on the wall up above us, whom you remember as do I.

Mr. Chairman, I ask unanimous consent that my entire statement be inserted in the record, and that I be permitted to summarize.

Mr. STUDDS. Certainly.

Mr. DINGELL. Mr. Chairman, I support fully the statement made by my good friend, Mr. Conte, and also urge this Committee to report at an early time H.R. 2587 to deal with the alarming loss of this nation's wetland resources and the appalling decline which is attending it in waterfowl populations.

When I first became a Member of this Committee, the duck stamp cost a dollar and about 10 percent of that money went into land acquisitions. Over the years, the duck stamp has risen above ten dollars, and we spend significantly larger sums of money with relatively small amounts being diverted from the purpose of wetlands acquisition. And yet, we note, Mr. Chairman, that today we are losing wetlands at the rate of somewhere between 350,000 and 500,000 acres a year. And that our net purpose of achieving a stable and viable waterfowl population for the North American continent is continuously slipping away from us because of the cost increase.

Mr. Conte mentioned he and I serve on the Migratory Bird Commission, and that we have had an opportunity to see what is going on. I would like to tell you a number of things about the Commission. First of all, we are finding that there are appalling increases in land costs. Where land used to cost a few dollars or even a few cents an acre, wetland resources today can cost between $5,000 to

$10,000 an acre. In some instances, $15,000 an acre. This is not money that is frivolously spent. It is money which is very well spent, and the Commission carefully administers not only the amount of money which is spent, the amount of money which is paid, but we try and see to it that the money is spent in the best way possible.

In addition, we try to see to it that the Commission acquires easements where we can or that we are able to enter into land exchanges, or obtain lands in a fashion which gets us the greatest amount of natural resource for the very least cost to the Federal Government and for the greatest benefit to fish and wildlife. I would note to you, Mr. Chairman, that the Migratory Bird Conservation Commission is a unique entity.

But it can be observed that the Commission serves an important function of reviewing acquisition programs and seeing to it that these programs remain on course. The Commission fosters a sound program from the standpoint of acquisition of habitat to support waterfowl, wildlife, other populations. But we also do something else, and that is we see to it that the Members of Congress have an input into matters on refuges which would affect their districts. And we believe we serve an extremely important purpose in that particular matter.

H.R. 2587 would keep intact the purposes for which the Commission has been set up. It would also avoid the unfortunate consequences of essentially setting up a parallel organization as would be done in the legislation sponsored by our good friends, Mr. Mitchell and Mr. Davis, who are, by the way, to be commended and not criticized for introducing that legislation.

The bill that we have introduced, we think, perfects a desirable purpose on the part of those two distinguished legislators which is to make it more effectively serve the public interest. The Congress has, as you know, tried to protect our waterfowl and wetland resources. We have increased duck stamp revenues. We have expanded the different statutes which relate to that, and you, Mr. Chairman, have served with distinction here in this capacity following on the heels of others like Mr. Breaux, Mr. Leggett, in providing outstanding leadership for this Subcommittee in carrying out its mission.

I will not burden you by explaining how important wetlands are in terms of water supply, water purification, and production of protein and other things which are so important to us. They are a great national treasure. Wetland losses all over the country are enormous and are contributing in a significant fashion to the severe decline of migratory waterfowl which are now below the levels that we saw in the great drought of the 1930's.

The situation is one affecting not only our own country, but also our neighbors to the North, Canada, and also our neighbors to the South in Mexico. One of the things that I find very interesting is that some of our migratory waterfowl start, in many instances, in Siberia, and move clear through Alaska and Canada, the continental United States, and clear on down to the southern tip of Padagonia and return. The migration of these waterfowl is, indeed, enormous, and having places where they can rest, where they can feed, where they can reproduce at all appropriate points along that route are a matter of great importance to the continued preservation of these populations.

Mr. Chairman, the funds available for acquisition of lands have continuously declined despite your best efforts and the best efforts of the Congress and this Subcommittee. There are funding increases and authorizations to put a little more money into this acquisition program. Those will pay enormous dividends to future generations and it will be one of the great treasures that you and I and the others here in the Congress will have set aside for the protection and benefit of the American people.

You should know that we are trying to do things down at the Commission. We are constrained by limitations in the Federal budget, but we are doing some remarkable things. One of the things that should give you pleasure, as it does me, is that the Commission since 1961 has acquired some 19,337 acres of Atlantic coastal marshes in a refuge known after a former distinguished Member of this particular Subcommittee, Mr. Ed Forsythe, at the Edwin B. Forsythe National Wildlife Refuge in New Jersey.

This is, of course, just in addition to thousands of other wetland acres that have been acquired as part of that refuge and also in other refuges such as 3,000 acres for the coastal marshes in Chincoteague and Back Bay, 6,000 acres of waterfowl habitat in Iroquois National Wildlife Refuge in New York, 62,000 acres of wintering habitat in six different refuges in North Carolina, 21,000 acres of bottomland hardwood refuges in Louisiana, some 38,000 acres of wintering habitat in the refuges in California, and over two million acres of waterfowl breeding and nesting habitat in the North Central Prairie Pothole Region which is so important to all of us.

The advisory committee which would be established by H.R. 2587 will assist in important matters including coordination. It will not duplicate the Commission's work, and I would urge you to keep that objective carefully in mind. The legislation will help expand the scope of input into wetland acquisition and preservation from state, local and international groups and organizations. The bill H.R. 2587 is a good bill. It is a comprehensive bill. It is a perfection of other legislation, H.R. 2322 and S. 804, which were introduced by our dear friend Mr. Mitchell in the Senate and Mr. Davis over here.

These two bills establish a similar commission, but it would have powers parallel to that of the Migratory Bird Conservation Commission. I do not believe the duplication in this area is desirable and I would observe that the comments of Mr. Conte seem to set forth other reasons in great clarity which I think would encourage this Committee to support his legislation and that which I cosponsor.

I do want you to know that the Commission has spent an enormous amount of time dealing with the problems of wetland acquisition, and we believe that an advisory committee as contained in H.R. 2587 would serve as a useful and a valuable and contributing asset to the Commission. I would urge the Committee to move with all speed to approve H.R. 2587.

This is a fine piece of legislation, and it does give us one of those rare opportunities which exist for the Congress to expand the preservation of our wetlands and our migratory waterfowl and to expand the chance of them being a resource for the next generation. Thank you, Mr. Chairman.

[The statement of Mr. Dingell follows.]

STATEMENT OF HON. JOHN D. DINGELL, A U.S. REPRESENTATIVE FROM MICHIGAN

Mr. Chairman, I want to thank Chairman Studds for giving me the opportunity to express my support for H.R. 2587, the North American Wetlands Conservation Act, which was introduced by my good friend and colleague, Congressman Silvio Conte of Massachusetts, which I co-sponsored along with many others who are concerned about the future of our wetland resources.

As was artfully stated by Congressman Conte, the primary focus of H.R. 2587 is to deal with the alarming loss of our Nation's wetland resources and the resulting decline in waterfowl populations. Mr. Chairman, protecting our wetland resources and ensuring our waterfowl populations remain stable and healthy is a goal I have been concerned with for most of the years I have served in Congress. Congress has attempted to protect these invaluable resources by enacting a number of conservation laws, including the National Wildlife Refuge System Administration Act, the Fish and Wildlife Coordination Act, laws improving and enhancing wetland acquisition programs, extending and funding the wetland loan account, and increasing the price of "duck stamps" to create more revenue for land acquisition. Without question, this Subcommittee has demonstrated leadership in dealing with this problem in the past and I commend the Subcommittee for favorably considering the legislation introduced by Mr. Conte, myself, and others.

As you know, both Congressman Conte and I have been members of the Migratory Bird Conservation Commission for quite a number of years. The Commission is responsible for approving the acquisition of hundreds and thousands of acres of wetland resources throughout the Nation and is fully aware of the need for the implementation of constructive programs such as the North American Waterfowl Plan and increased funding for the acquisition of these critical natural resources.

Wetlands are vitally important to wildlife, fisheries, and other aquatic resources. They sustain nearly one-third of the Nation's endangered and threatened species. Millions of waterfowl and shorebirds rely on wetlands for wintering and breeding. Commercial fisheries provide key habitat for 60 to 90 percent of U.S. commercial fish harvests. Wetlands also are essential to reducing flood damage, preventing erosion, filtering sediment, and mitigating pollution.

The current statistics relating to wetland loss are alarming. Wetlands, which constitute only 5 percent of the land area of the United States, are estimated to have been reduced by more than 50 percent in the continental United States since the founding of this Nation. These wetlands continue to disappear at a rate of between 300,000 and 450,000 acres each year. In only a twenty-year period between 1950 and 1970 about 11 million acres of swamps and marshes were destroyed, for an annual loss averaging 458,000 acres.

My friends in the sport hunting community keep asking why duck populations are disappearing. The linkage between the decline in duck breeding populations and the destruction of our Nation's wetlands is clear. In 1956, duck breeding population was greater than 46,600,000. This year, that level is projected to drop to under 29,000,000.

The most recent and extensive wetland losses have taken place in California, Louisiana, Mississippi, Texas, Iowa, North Dakota, South Dakota, and Florida and can be linked to the severe decline of migratory waterfowl, particularly several species of ducks which have declined almost 50 percent from the 1970s.

This massive loss of wetland resources is not just a problem relegated to the United States. Because migratory waterfowl know no geographic boundaries, our neighbor to the North—Canada—also suffers from the demise of wetland resources and waterfowl populations. This is why the United States and Canada in 1986 signed the North American Waterfowl Management Plan, establishing a comprehensive framework to deal with the problem of wetland destruction. It is this legislation that Congressman Conte and I believe is the most effective means to implement the goals and principles set forth in that plan.

Mr. Chairman, I will not belabor the Committee with a review of all the provisions of H.R. 2587. However, the main thrust of the bill should be mentioned.

First, the legislation introduced by Mr. Conte, myself, and others, would utilize investment proceeds from the Pittman-Robertson Fund and general revenue to implement the plan.

Second, the legislation creates a logical framework for implementing the plan by establishing an advisory committee to screen and evaluate projects and to recommend worthwhile projects to the Migratory Bird Conservation Commission for funding approval. In fact, in addition to its other work in protecting the Nation's wetland resources, the Commission has already acquired millions of acres of wetland resources that are contained in projects envisioned by the North American Waterfowl Plan.

The Commission recently acquired 19,337 acres of Atlantic coastal marshes in the Edwin B. Forsyth National Wildlife Refuge in New Jersey. This is in addition to the acquisition of thousands of other wetland resources as part of that refuge. The Commission also has acquired 3,000 acres of coastal marshes in the Chincoteague and Back Bay National Wildlife Refuges in Virginia, almost 6,000 acres of waterfowl habitat in the Iroquois National Wildlife Refuge in New York, over 62,000 acres of wintering habitat in six different refuges in North Carolina, almost 21,000 acres of bottomland hardwood in the Upper Ouachite Refuge in Louisiana, over 38,000 acres of wintering habitat in three refuges in California, and over 2 million acres of waterfowl breeding and nesting habitat in the North Central Prairie Pothole region.

The advisory committee established by H.R. 2587 will assist in the coordination and not the duplication of the Commission's work. Finally, the legislation will help expand the scope of input into wetland preservation from the local, state, and international levels.

Mr. Chairman, H.R. 2587 is a good bill. It is a comprehensive bill. It is legislation worth adoption by the Subcommittee, Full Merchant Marine Committee and ultimately the House and Senate. I do want to make a point about what I consider to be a major difference between our legislation and the bill introduced by Senator Mitchell, S. 804 and Congressman Davis, H.R. 2322.

While S. 804 and H.R. 2322 establish a North American Wetlands Conservation Commission with powers parallel to that of the Migratory Bird Conservation Commission, our legislation, H.R. 2587, makes the Commission an advisory committee for the existing Migratory Bird Conservation Commission.

I think this is an important distinction. The Migratory Bird Conservation Commission has had fifty years of experience in evaluating and approving the acquisition of thousands of wetland resources. It is a fine Commission which utilizes expertise from all over the Nation to assist in its work. While S. 804 and H.R. 2322 also embody a worthwhile and comprehensive approach to acquiring these wetland resources, I believe it would be a mistake, as proposed in these bills, to create a parallel and duplicative commission. Congressman Conte and I have spent many years on the Commission dealing with the problems of wetland acquisition and we believe that the creation of an advisory committee, as contained in H.R. 2587, would serve as a critical adjunct to the Commission.

Congressman Conte has made many improvements and refinements to the Senate bill and has included some provisions in his bill that would go a long way in solving problems currently confronting the work of the Commission:

—The Conte bill makes the elected chairman of the advisory committee an ex-officio member of the Commission for purposes of consideration of joint wetland ventures under the Act;

—The Conte bill includes additional criteria and restrictions on transferring acquired wetland areas out of the National Wildlife Refuge System;

—The Conte bill includes the House and Senate Appropriations Committees to the list of "appropriate committees" to receive copies of the proposed projects;

—The Conte bill requires that the coordinator for implementing the Act will have to be an employee of the U.S. Fish and Wildlife Service;

—The Conte bill shifts Migratory Bird Act penalties and fines into the Refuge Revenue Sharing Fund along with other enforcement revenues generated by the Fish and Wildlife Service, with the exception of fines arising out of the Endangered Species Act and Lacey Act;

—The Conte bill strengthens the membership of the Migratory Bird Conservation Commission by adding the administrator of the U.S. Environmental Protection Agency as a member in lieu of the Secretary of Transportation;

—And, finally the Conte bill includes language prohibiting excessive overhead costs, other than personnel administrative costs related to the costs of acquiring real property, from being levied against the Migratory Bird Conservation account. In the past such costs have exceeded $1 million annually.

Mr. Chairman, H.R. 2587 is good legislation that will put in place a mechanism that will be of great benefit to saving our wetland resources. It is a bill worthy of careful scrutiny by the Members of the Subcommittee and I urge its adoption.

Mr. STUDDS. Thank you very much, John. It is very reassuring to know that your concern and leadership continues in this area although your responsibilities have held you to focus elsewhere for a few years. Are there questions for our distinguished colleague from Michigan?

If not, we thank you for your continuing leadership, and we send you on your way, and we will try to do well by you and your bill. We look forward to seeing you many times again.

Mr. DINGELL. Thank you, Mr. Chairman, and I do envy you all being on this Subcommittee. It is a great opportunity. Thank you, Mr. Chairman.

Mr. STUDDS. I believe you. Thanks.

Mr. STUDDS. We go now to the remainder of our witnesses which we will hear as a single panel, if the five of you will come forward and take your places. We will proceed, as we usually do in the Committee, if you do not mind—I gather you have been asked and have agreed to confine your oral testimony to five minutes. Your written testimony will appear in full in the record, and we will go in the order in which your names appear on the witness list, beginning with Ms. Maryanne Bach, Deputy Assistant Secretary for Fish and Wildlife and Parks in the Interior Department.

Ms. Bach, you have a challenge. You heard Congressman Conte say that on this issue the Administration has a clear and unequivocal position. You are recognized for five minutes to state it. Welcome.

STATEMENTS OF A PANEL, CONSISTING OF MS. MARYANNE BACH, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR; MR. R. MAX PETERSON, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES; MS. JAN GOLDMAN-CARTER, COUNSEL, FISHERIES AND WILDLIFE DIVISION, NATIONAL WILDLIFE FEDERATION

Ms. BACH. I appreciate the challenge, Mr. Chairman. Mr. Chairman, I am joined today by Mr. Bill Hardwick, Division of Realty, Fish and Wildlife Service, and Mr. David Smith, Division of Endangered Species and Habitat Conservation, and also Mr. Pete Pulis from the Migratory Bird Office.

I appreciate the opportunity to be here today to discuss the Department's views on both of these pieces of legislation introduced by Congressman Davis and other Members of the Committee, and by Mr. Silvio Conte, Mr. Dingell, Mr. Davis, Mr. Jones and other Members, to implement the North American Waterfowl Management Plan.

I would like to summarize my written statement at this time. I would like to commend the sponsors of both of these bills for their interest and involvement in the North American Plan and Chairman Studds, for your holding this hearing. Further, I would like to acknowledge the work of Senator Mitchell and Senator Chaffee on the Senate version of this legislation.

We look forward to working with the Congress on fashioning a final legislative package which allows for the most efficient implementation and management of the plan, an which meets the President's goal of signing implementation later this year. I want to assure the Committee that the Department is very supportive of the plan. It is an excellent vehicle for promoting international cooperation, for partnerships with the States and the private sector, and for Federal interagency coordination on wetlands protection and enhancement efforts.

The Department and the Administration also strongly support the goals of stable funding for the plan, and this is the cornerstone of the two pieces of legislation under discussion today. We have demonstrated this support by Secretary Lujan's June 6 statement by endorsing the conversion of the Pittman-Robertson Fund into a trust fund with the interest from the fund being available without appropriations to fund plan projects.

As the Committee is aware, the President seconded that endorsement on June 8. Mr. Chairman and Members of the Committee, while the Administration generally does advocate the permanent appropriations of funds, our position on this issue is a strong signal of the President and the Secretary's commitment to wetlands habitat conservation and the North American Plan.

As the Pittman-Robertson Fund is a tax on the recreation community, these legislative proposals provide an opportunity for the funds to be leveraged with private sector funds to allow for further conservation activities, specifically wetlands habitat protection and enhancement. There is much agreement between the sponsors and the Administration and our differences are reconcilable.

While the concept for funding are the same, we do believe in the Administration that a formal trust fund mirroring that of the Wallop-Breaux fund is preferable. This approach based on existing law and programs would provide a more certain administration of the program. There are a couple of other provisions in the legislative proposals which I would like to highlight.

Insofar as the authorization for additional appropriation of the $15 is concerned, we view the Administration's annual budget submission as our best vehicle for not only promoting additional spending by the Fish and Wildlife Service in support of the plan, but also providing the opportunity for multi-agency involvement in plan implementation and joint venture projects.

Existing Administration initiatives on wetlands as explained in my formal statement represent a considerable increase from previous levels of funding, and we may well have other opportunities in conjunction with ongoing development of Administration wetland policies.

Second, regarding the establishment of a new commission or advisory committee, the Department is on record in opposition to the creation of a new structure. There are numerous, ongoing efforts in the Fish and Wildlife Service for wetlands enhancement and management and acquisition efforts through the Land and Water Conservation Fund annual appropriations and the Migratory Bird Conservation Commission's activities.

The North American Waterfowl Management Plan itself has a plan committee, which contains both Federal and State representation on the U.S. side, and which is charged by the Plan with reviewing joint venture proposals and making recommendations to the American and Canadian Governments. There is also the North American Plan Implementation Board representing the private participants in the joint venture.

The legislative proposals take a somewhat different approach, and we would like to work with the Committee to reconcile our differences. It is from a desire for maximum flexibility in dealing with the existing universe of participants and to promote the best management of our resources within the existing governmental framework that we at the Department raise our concerns to the new structure dealing solely with recommending plan projects to the Secretary.

We have also concerns of possible conflicts with the make up of the commission or the committee, and we would like to discuss this matter further with the Subcommittee. We would like to work with the Committee to assure the legislation is consistent with the agreement that we have signed with Canada.

We are interested in maintaining the very important and necessary involvement of the private sector at the grassroots level and in the field through the formation of joint efforts, joint ventures.

Thirdly, the plan states that there is no obligation for either Government to spend across the borders. The Department believes that maximum flexibility must exist to allow for the maximum leverage of dollars. Both bills require the Secretary to expend between 50 to 70 percent of its available Federal funds in Canada each year. While we recognize that the plan calls for a majority of the implementation to support the habitat, wildlife habitat in Canada, and we strongly support the plan, we would like the flexibility in terms of leveraging the dollars. It could well be that in any given year, the availability of highest priority lands might largely be in the U.S.

To avoid having to spend scarce resources on lower priority lands, we recommend that the legislation provide the flexibility to allocate the funds in accordance with the highest priority projects. This could perhaps be accomplished by requiring that funds be allocated in accordance with the provisions of the plan and the agreement with Mexico rather than in accordance with fixed percentages.

We also note that the agreement with Mexico speaks to technical assistance and planning activities rather than land acquisition, a distinction, I believe, Mr. Chairman, which your staff has brought to our attention that is not reflected in the legislation. We will be glad to work with the Committee on this issue.

Overall, we hope the legislation is limited to provisions that are consistent with the plan as currently written. Expanding the scope of the plan, changing the composition of the current Migratory Bird Commission or attaching amendments no matter how desirable such additional provisions may, in fact, affect the prospects for prompt passage of the legislation.

I would highlight once again the commitment of the Administration towards a sound reliable funding, the importance of partnership, and note that for the plan to be successful funding requires the pooling of resources, both in the United States with the States themselves, with the Federal Government and the private sector, as well as with our international partner Canada. The Department looks forward to working with the Committee and the sponsors of the legislation, towards establishing and moving forward on a final legislative package, and that concludes, Mr. Chairman, my oral remarks.

Mr. STUDDS. Thank you very much, Ms. Bach.

[The statement of Ms. Bach can be found at the end of the hearing.]

Mr. STUDDS. Next Mr. Max Peterson of the International Association of Fish and Wildlife Agencies. Mr. Peterson.

STATEMENT OF MR. MAX PETERSON

Mr. PETERSON. Good morning, Mr. Chairman, Members of the Committee. You have my prepared statement. In the interest of time, if you would accept it for the record, I will try to save you some time by highlighting it.

Mr. Chairman, as you know, I represent the International Association of Fish and Wildlife Agencies which has as members all 50 State Fish and Wildlife Agencies and the provinces of Canada. We are very concerned that this legislation recognize the unique partnership of the North American Waterfowl Management Plan.

Let me emphasize first that this is not just another Federal acquisition program. I think some have looked at this as just another Federal acquisition program and that somehow this supplements the migratory bird stamp in buying wildlife refuge land. That is not the primary intent of this legislation.

The primary intent is to encourage and assist the existing partnerships out there that are doing all kinds of work, most of it on private land and land that there is no intention of acquiring. The work will be done through easements, through long-term agreements, and through specific work on existing lands. It is also anticipated that some of the acquisition will be of lands that may be managed by State fish and game agencies, by non-profit organizations and so on. We are also concerned, Mr. Chairman, that this is seen as just an assist to Federal agencies. Remember that at least half of the money must be provided by State and private interests.

We believe that they deserve strong partnership representation in how those funds will be spent and not just relegated to an advisory committee to an existing commission. They will, Mr. Chairman, in fact, have authority whether we give it to them or not in this bill because they simply will not provide half the funds, which is a very effective veto of a project.

We do not want to have the States and the non-profit organizations having to play that kind of a game, to say, well; we just will not provide half the funding. We think it is important that decisions be primarily a biological decision, and not a political decision on the best use of the funds. North American Waterfowl Management Plan decisions have, to date, been biologically based. It is primarily biologists from all of North America working together to identify the primary waterfowl areas and then put together a plan, what we call a joint venture, in that area to do something about it.

We need to encourage those partnerships. They are there. We are not establishing something new. We are not duplicating something in these bills. We are simply recognizing existing partnerships. That is why we support S. 804 and the original bill introduced by Mr. Davis, because it does recognize these partnerships as having an important say in what happens.

We also address in our testimony the fact that we do have a problem that is recognized in all the bills, and that is that the refuge revenue sharing appropriation is not adequate to pay the full amount that is required. I consider this sort of like paying your taxes. We expect the private sector to pay their taxes. It is simply wrong for the Federal Government to be an undependable provider of the funds that are required under the Refuge Revenue Sharing Act, and to have to depend on what happens in annual appropriations.

So we would support the recent bills that have been introduced by Senator Conrad and Congressman Dorgan. We would propose that you pick up H.R. 2746 which provides that the Secretary of Interior will simply pay that shortage out of undesignated receipts. Funds will be dependable. It will not be a hassle each year. The school districts will not have to worry about whether they are going to get their money or not.

Now with late appropriations, sometimes the county is well into the fiscal year before they know whether or not they are going to get the funding.Finally, Mr. Chairman, I would say we are opposed to the idea of an advisory committee to the Commission. We have great respect for the Migratory Bird Commission.

I served personally as the Secretary of Agriculture's representative to that Commission, and there is no question that Mr. Conte and Mr. Dingell have long-standing personal involvement and real concern for how the duck stamp money is spent. But this is a much broader program than that. We think there is some involvement and consultation that is required. But I would suggest that providing one member of this so-called advisory committee with a vote with seven others on the Commission is not very much power when you compare the separate commission that has been put in place in S. 804 which would give that commission itself the authority to determine priorities.

Mr. Chairman, that concludes my summary of my statement. I would be glad to answer questions when it comes time.

Mr. Studds. Thank you very much, sir.

[The statement of Mr. Peterson can be found at the end of the hearing.]

Mr. Studds. Next we will hear from Ms. Jan Goldman-Carter of the National Wildlife Federation. Ms. Goldman-Carter.

STATEMENT OF MS. GOLDMAN-CARTER

Ms. Goldman-Carter. Good morning, Mr. Chairman and Members of the Subcommittee. I too will try to summarize my statement and ask that the full statement be included in the record. The National Wildlife Federation appreciates the opportunity to provide this statement on H.R. 2322 and 2587, both to be entitled "The North American Wetlands Conservation Act."

By amending the Pittman-Robertson legislation to dedicate interest monies, by dedicating fines collected pursuant to the Migratory Bird Treaty Act, and by authorizing new appropriations, the North American Wetland Conservation Act for the first time provides a relatively stable and predictable source of funds for wetlands projects including acquisitions. This is one of the bill's strongest elements, and it is one which we support vigorously.

The President's Proclamation of a National No Net Loss Policy reflects a new and deepened concern for the loss of our Nation's wetlands. To us it is a clear indication that the tide of public opinion is rising, and our public servants are convinced that it will no longer be business as usual for those who profit from the permanent alteration and destruction of our Nation's rich and valuable wetland heritage.

The North American Wetland Conservation Act offers an opportunity to respond to the Administration's promise of no net loss, and to formalize the concept in law. Putting these bills into the framework of a national no net-loss policy not only furthers the President's wetlands agenda, but that of the North American Waterfowl Management Plan itself. The plan acknowledges in no uncertain terms that quote, "the loss and degradation of habitat is the major waterfowl management problem in North America."

The National Wildlife Federation urges this Subcommittee to consider additional measures for inclusion in the Act which bring us closer to achieving no net loss of our Nation's wetlands. And we offer some suggestions for your consideration. These I will try to summarize now.

First, you might consider including provisions to implement the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, commonly known as RAMSAR. Though in some respects the treaty may be self-implementing, there appears to be merit in legislating the United States' obligations under RAMSAR to ensure that its provisions carry the force of law. Such provisions could include additional protective measures for U.S. RAMSAR sites.

Secondly, we ask that you consider clarifying the definition of and criteria for approving wetlands conservation projects. While the North American Waterfowl Management Plan and the North American Wetland Conservation Act both seem to place an emphasis on habitat management, they also recognize the importance of natural, unaltered wetland systems, their diversity and the variety of functions they serve.

First, the definition of wetland conservation project should be amended so that projects which entail obtaining a real property interest as described in Section 3(10)(a) of H.R. 2587 are eligible for consideration without including project features for quote "restoration, management or enhancement" as described in Section 3(10)(b). The section as presently worded appears to require that a project include both acquisition and management components in order to meet the definition. In our view, this requirement undermines the actual goals and recommendations of the plan.

Second, we strongly encourage the Subcommittee to state a general preference in the act for funding wetland conservation projects which protect existing wetlands and restore previously destroyed or degraded wetlands over projects which simply enhance or manage existing wetland ecosystems. The principle here is that the first step in achieving the no net loss of wetlands is to secure the protection of wetlands and former wetland systems. I want to just briefly summarize the others and go to the one of most importance. We also ask that you consider additional criteria that would heighten the importance of conserving fish habitat, the educational value of a project, and non-game migratory birds, and actually ask for a provision to be added which would amend the Fish and Wildlife Conservation Act to require the Fish and Wildlife Service to develop plans modeled after the North American Waterfowl Management Plan in cooperation with Western Hemisphere nations that would foster the conservation of migratory non-game birds.

In addition, we ask that you address the threat of agricultural chemicals in these bills. Agricultural chemicals can have a dramatic impact on waterfowl, and it makes little sense to fund the North American Waterfowl Management Plan to restore continental waterfowl populations while agricultural chemicals cause major losses of these populations to continue.

And finally, we ask that Federal agency authority and efforts to reduce additional wetland losses should be strengthened in the plan's waterfowl habitat areas of major concern. The fact that additional wetland losses due to development activities were likely to continue and that such losses would undermine the goals of the plan were not lost on its authors.

In order to protect its investment in the plan, the Federal Government must strengthen its existing wetland protection programs particularly those in the geographical areas where projects funded under this act will be concentrated.

Given the central role of the Fish and Wildlife Service in implementing both the plan and this act it is appropriate to include in this legislation measures that strengthen the Service's ability to prevent the unnecessary destruction of wetlands. What we suggest in particular is to amend the North American Wetland Conservation Act to require the Service, and NMFS in coastal areas, that their recommendations made pursuant to the Fish and Wildlife Coordination Act where they affect wetlands and waterfowl habitat areas of major concern be designed to achieve no net loss of the affected wetlands.

The amendment would require each Federal action agency receiving such recommendations to accept them with one limited exception—one, where the Federal action agency concludes that adoption of the Fish and Wildlife Service recommendations would be inconsistent with other Federal legal obligations; two, where efforts to resolve that inconsistency fail; and three, where the Federal action agency identifies alternative measures that will prevent the loss of the affected wetlands, the action agency may substitute its own wetland protection measures. This is the framework that Congress has already enacted in the Federal Power Act to require the Federal Energy Regulatory Commission to give strong consideration and due weight to Fish and Wildlife Service and NMFS recommendations. And we ask that you consider it here.

In conclusion, while it is true that the bills that we discuss today fund wetlands conservation in large part through taxes imposed on sportsmen and these bills are intended primarily to fund the conversation of waterfowl habitat through the North American Waterfowl Management Plan, we must not forget that the wetlands of this continent are public resources which provide a diversity of benefits to a diversity of users.

The full spectrum of wetland types and functions must be recognized and valued in the drafting and implementation of these important legislation. Whether interest in wetlands protection arises from recreation, a need for flood protection or clean and abundant water or simply a view of our place in the universe, we all have reason to support a common goal, to maintain wetlands in the short-term, and increase their quality and quantity in the long-term. We believe the suggestions we have offered help accomplish this and we urge the Subcommittee to give them full consideration. Thank you for the opportunity to provide this testimony.

Mr. STUDDS. Thank you very, very much.

[The statement of Ms. Goldman-Carter can be found at the end of the hearing.]

Mr. STUDDS. We are going to suspend for approximately 10 minutes. There is a vote on the floor, and just so you folks can have something to think about as you debate whether or not we can afford 11 or $26 million, I guess, is the total requested by these bills for a year, we are going over to vote on a proposition to increase spending for SDI to $4.1 billion next year, to put that in some kind of context for you. We will be right back as soon as we decide that relatively minor question.

[Recess.]

Mr. STUDDS. The Chair would appreciate if we could regroup. It looks like we are going to be interrupted by votes every ten minutes or so for awhile. So we will just do the best we can. We will resume with Mr. John Smolko of Ducks Unlimited. Mr. Smolko, welcome.

STATEMENT OF MR. JOHN F. SMOLKO, JR., DIRECTOR OF FEDERAL RELATIONS, DUCKS UNLIMITED, INC.

Mr. SMOLKO. Good morning, Mr. Chairman and distinguished Members of the Committee. I thank you for this opportunity to testify today on H.R. 2322 and H.R. 2587. It gives me particular pleasure to be back here to testify here for the first time before Congress before a Committee which when I came up to Washington many years ago was the first committee I staffed. So it is particularly nice to return.

At the outset, let me say the authors of these two bills are to be commended for their efforts. While their approaches may differ, their ultimate goal is the same, to ensure a stable source of Federal funds to match non-Federal funds for the enhancement and preservation of critical wetland and upland nesting habitat in Canada, Mexico and the United States. We would also like to extend our thanks and appreciation Bush and Secretary Lujan for their efforts in this regard, too, and their stated support for the legislation which we have.

Despite our best efforts, those of Federal and State agencies and other organizations, tens of millions of wetland acres have yielded to the plow blade, the tarmac and concrete. North American Waterfowl Management Plan is the blueprint for preserving and restoring wetland habitat essential to waterfowl and other wildlife.

The plan, though it speaks of waterfowl, benefits many species of wildlife which has gone misunderstood for far too long.

Under the plan, critical habitat areas, wetland complexes for the most part, are identified throughout North America for enhancement and preservation. By no coincidence of nature, biologists find this habitat is also essential to many other species of plants and animals. Thus, the plan is a framework for helping waterfowl and many other species of endangered and threatened plants and animals. Its success depends on the concerted cooperative effort of the Federal, State and private sector. DU as well as the Implementation Board for the Plan understands the effort required.

DU alone has pledged an excess of $300 million to the plan over the next 15 years. The partner that still needs to be brought solidly on board is the Federal Government. In short, this is what the legislation does. It provides the Federal commitment now missing and the long-term stable, Federal financial commitment which is essential.

I would now like to comment on what DU considers to be the three major issues in these bills. First, the source of funding provided under the bills. DU supports the use of interest generated on investment of the Pittman-Robertson funds, the penalties or fines or funds from forfeiture of property under the Migratory Bird Treaty Act and the appropriation of such additional amounts as will be necessary.

In addition, the PR interest made available should not be subject to annual appropriation. With respect to the penalties, fines or funds from forfeitures of property under the Migratory Bird Act, H.R. 2587 would use this money for payments under the Refuge Revenue Sharing Act. Unquestionably, this Act is underfunded but suing the penalties and fines for these purposes is merely a band-aid approach to the problem. It is incumbent upon all of us to develop a solution which will ensure sufficient year to year funding, not merely reduce the shortfall.

And as Max mentioned in his testimony, there are several proposals which are out there now which would accomplish that. Perhaps the most contentious issue is the way the two bills deal with the selection and approval of funding for various wetland conservation projects. As the bills are currently drafted, DU supports the establishment of a commission which reports directly to the Interior Secretary. The commission's responsibilities would be to prioritize and recommend specific wetland conservation projects to the Secretary for Federal funding.

Also, the Migratory Bird Commission would be consulted by the Secretary, consultation DU views as essential to assure coordination with acquisition projects under consideration by the MBC. To relegate the States and the private sector to merely an advisory role is inappropriate. Those cooperating and working day in and day out to implement the plan, we feel should have an equal voice in the decision-making process.

The synergism created through the joint efforts of the public and private sector is the catalyst which can ensure we are successful. Who the commission reports to is also an important issue? Should it be the Interior Secretary or the Migratory Bird Commission? We feel how this is resolved leads us to who ultimately becomes responsible for the implementation of the plan. In our opinion, this should be the Secretary. The MBC is highly skilled in habitat acquisition and has continually done an outstanding job.

However, the plan contemplates land acquisition as only one of many activities including habitat creation and enhancement and implementation of programs of to conserve soil and water. Thus, it seems inappropriate to subordinate the broad scope and needs of the plan to the MBC. The Secretary has a cadre of talented professional personnel available within the Department and is a signatory to the plan.

In our view, he is the one who should be responsible for Federal actions and decisions relative to implementing the plan. The final issue I would like to comment on relates to the allocation of funds between Canada and Mexico and the U.S. DU supports the specific thresholds on the amount of funds to be spent in these countries. Because the bulk of the bulk of the habitat work to be done is in Canada and the extensive planning necessary for wetlands projects, it is imperative that our neighbors to the North be able to rely on a stable level of annual funding.

In summary, Mr. Chairman, waterfowl are facing a crisis. They need our help. This legislation helps us meet that crisis and deserves your expeditious consideration. We would only like to add one other thing. And that is if you would, in your upcoming trip to Alaska, we would be pleased through the Implementation Board or through Ducks Unlimited to show you first-hand many of the projects which we do have ongoing and which are critical in the Alaska area including the Copper River Delta and many projects there that are just outside of Anchorage. That concludes my testimony, Mr. Chairman. I would be happy to answer any questions.

Mr. STUDDS. I appreciate that. Thank you for the reference to going north, anywhere north at this time of year.

[The statement of Mr. Smolko can be found at the end of the hearing.]

Mr. STUDDS. Finally, Mr. Thomas Massengale of The Nature Conservancy. Mr. Massengale.

STATEMENT OF MR. THOMAS MASSENGALE, VICE PRESIDENT FOR MAJOR PROGRAM DEVELOPMENT, THE NATURE CONSERVANCY

Mr. MASSENGALE. Mr. Chairman and Members of the Committee, good morning. My name is Thomas Massengale. I am Vice President of Major Program Development for The Nature Conservancy, I would like to thank the Committee for the opportunity to present The Nature Conservancy's views of H.R. 2322 and 2587 entitled "The North American Wetland Conservation Act."

The Nature Conservancy strongly supports this Act and we commend Congressman Conte and Congressman Davis and the other sponsors of the bill for their foresight and commitment in introducing this important piece of conservation legislation. We would also like to thank you, Congressman Studds, for holding hearings on this important act.

We have submitted written testimony, but I would like to summarize that and just make a few comments if I may. The Nature

Conservancy is a national non-profit conservation organization with over 500,000 members. Our principal objective is to preserve this Nation's biological diversity by identifying and protecting important ecosystems and rare species habitat.

Towards that end, we have protected over three million acres of ecologically significant land since 1954. We acquire land and manage land ourselves in cooperation with the Federal and State Governments and with other private groups. Much of our conservation work is centered on the protection of wetlands. While we all recognize that wetlands serve many critical ecological functions, one of the most important functions typically goes unrecognized. And that is their role in providing habitat for rare species.

Studies have shown that approximately 35 percent of all rare, threatened and endangered species are dependent on wetlands for all or part of their life cycle. Therefore, if the Conservancy is to succeed with its mission of protecting biological diversity, it is going to have to protect wetlands. But the scope of the job of protecting American wetlands is far too great for the Conservancy or for that matter the entire capacity of the private conservation community.

If we are to succeed in the protection of American wetlands, we must form an effective partnership between public and private sector conservation agencies. The partnership must be one that leverages both public and private, human and financial resources and directs those resources towards the most threatened and important wetland areas.

We believe that the framework for such a national wetland conservation partnership exists in the North American Waterfowl Management Plan. We support the goals of the plan and we feel it provides a wonderful vehicle for waterfowl, non-game, endangered species and ecosystem conservation. For the plan to work, however, we need a catalyst. The North American Wetland Conservation Act provides an exceptionally good catalyst to the plan in our opinion.

It does so for the following reasons. One, it provides essential matching funds which will challenge the private and State public sectors to spend their own dollars in this effort. Two, it provides meaningful participation in the process by State agencies and private sector partners. Three, it recognizes the significance of success not only in the U.S. but in Canada and Mexico as well, and provides matching support for wetland efforts in these countries, and fourth, it provides stability to the entire effort. Just knowing that the Federal funds will be in the pipeline from year to year will give the partners the opportunity to do the type of creative, long-term planning that is necessary to protect multi-ownership in multi-million dollar wetland areas.

I cannot overemphasize how critical the funding inherent in the North American Wetland Conservation Act is to making the North American Plan work. The plan without funding is but a dream, and this is a dream that we need to bring reality. H.R. 2322 and 2587 not only provides essential funding for the plan, but it does so in a creative way that will leverage State and private sector participation and financial support. By sharing the cost of the plan, the overall dollar figures of the plan, which are ambitious, about $1.5 million, are attainable.

If the Federal Government will lead by making matching grants available, the rest of us will follow with our dollars. We will follow for several reasons. One, we are deeply committed to the habitat protection goals of the plan. And two, the match that you offer is highly attractive to our competitive spirits. We will be driven by that match, and you can anticipate that we will scrap for every dollar that is on the table and we will assure that it is spent and that it is spent well.

Let me give you several examples of how leverage has worked with The Nature Conservancy through challenge matches much as like those you propose here. I think we can trace The Nature Conservancy's growth over the last ten years to two principal programs. One was the Catherine Ordway Endangered Species Program. Ms. Ordway at her death left about $35 million to the Goodhill Foundation with the instructions that the money be spent to protect the most endangered species habitats in the country.

The foundation trustees instead of just turning the funds over to groups like The Nature Conservancy or Audubon challenged us to match it at least two to one. As a result, The Nature Conservancy State chapters rose up and we raised roughly $100 million of other dollars that would not have otherwise been raised without the match.

Some of our State programs at that time were very small. They thought that a 100 or a $200,000 fund-raiser was beyond them. Yet they raised levels two to ten times as great because of the challenge match. The other challenge program was the R.K. Mellon National Wetland Conservation Program funded by a $25 million grant by the R.K. Mellon Foundation.

Through that program, we challenged State and Federal Governments and other private sector partners with the result of protecting over $125 million worth of critical habitat. In conclusion, the type of challenge program that you have in the bill before you makes the conservation community really hustle. I think it is built into this bill beautifully and we support its passage. Thank you.

Mr. Studds. Thank you, sir, very much. And thank you all.

[The statement of Mr. Massengale can be found at the end of the hearing.]

Mr. Studds. I would like to begin with a few words of praise for the non-governmental organizations, no offense to the Interior Department at all. Groups like Ducks Unlimited and The Nature Conservancy and National Wildlife Federation have contributed not only to the development of the North American Waterfowl Plan, but I think to the very survival of the conservation ethic itself in this country.

You have devoted your time, your energy and your money to the protection of this Nation's natural heritage. In so doing, you have helped strengthen concern for the environment not only in this country but around the world. So let me just begin by saying thank you on behalf of a great many people, to say nothing of a great many critters.

The North American Waterfowl Plan states specifically that if we are going to protect waterfowl habitat, we are also going to have to modify activities including public works projects that destroy or degrade wetlands. Ms. Goldman-Carter, you suggested that we require that Federal or Federally permitted activities be conducted in a manner that will not result in a net loss of wetlands within the waterfowl habitat areas identified in the plan.

To what extent, let me ask you to begin with, have Federal and Federally permitted projects contributed in the past to the loss of important waterfowl habitat?

Ms. GOLDMAN-CARTER. I think they have contributed significantly to the loss of waterfowl habitat. If you look at the plan and the wetlands focus on the Prairie Pothole Region and the lower Mississippi River Region, for instance, both of which have joint ventures involved, both of those areas were the subject of the 1988 Department of Interior Report on the impact of Federal programs on wetlands which was actually written pursuant to the Emergency Wetlands Act, in which Congress asked for that study, and that suggests to me that Congress recognized as well that Federal programs did have, or potentially did have, a very significant impact in these particular areas, which area areas of great wetlands concern generally, but are also very important in terms of the North American Waterfowl Plan.

If you look at the recommendations and the conclusions of that study, it specifically says, for instance, for the Delta, the lower Mississippi Delta area, that Federal flood control and drainage projects built between 1935 and 1984 played a more important role in wetlands depletion than any other factor, and that those projects accounted for approximately 25 percent of the total wetland depletion.

Similarly, in the prairies, the Federally-aided highways, which are activities, Federal dams and reservoirs and the P.L. 566 Stream Channelization Programs, all contributed significantly to the loss of wetlands in those areas, and therefore, I think we can say waterfowl habitat. The recommendations of the report actually mirror that concern and reflect that they think these Federal projects also have a big impact. Highways, some improved and early in the process consultation on highway projects, more concurrent mitigation and actual Federal project follow-through on mitigation and closer inter-agency coordination on 404 permits in the Prairie Pothole area are all specific recommendations out of that report that I think point to the importance of Federal projects in this area. We can also identify specific examples, but we could do that at a later time.

Mr. STUDDS. Do you believe that requiring Federal and Federally permitted projects to meet a standard of no net loss is workable, and that it would help achieve the wetland protection goals of the plan?

Ms. GOLDMAN-CARTER. I think it is workable. It has actually already been done, a very similar framework has been implemented in the Federal Power Act and our look at the experience under that Act is that although it is early—it has only been in effect about three years—it does appear to be serving its purpose and that is to get the Federal Energy Regulation Commission to actually take the Fish and Wildlife Service and National Marine Fisheries Service recommendations seriously and to, I think, ultimately to get better mitigation and better Fish and Wildlife Conservation measures in place with Federal activities

Mr. **Studds**. OK.

Ms. **Goldman-Carter**. In terms of whether it addresses the wetlands protection goals of the plan, I definitely think it does. If you look at the goals of the plan, they all start with the protection of additional "x" thousand and hundred thousand acres of additional wetland habitat. So it starts from the premise that we are going to be able to hold on to what we have. And what we are suggesting here will help us hold on to what we have at a minimum.

Mr. **Studds**. In the light of what you have just said, let me ask the other panelists, do the rest of you agree that her proposal would help achieve the goals of the plan to the extent that we need to go beyond acquisition and restoration of wetlands, and can you recommend to the Subcommittee any ideas that would be more effective than Ms. Goldman-Carter's in protecting waterfowl habitat without substantially increasing cost to the Government? Anyone and/or everyone.

Mr. **Peterson**. Mr. Chairman, I reluctantly disagree with her. It is a worthy goal, but we know, for example, that 55 square miles of lower area of Louisiana is disappearing due to erosion. How do you suddenly create a law that says within that joint venture area you are going to have no net loss and that you cannot do anything that would not meet that goal?

I do know what has happened, what we have done in that area. So I do not know how you make it workable, how you make a joint venture area a no net loss area. There are some areas that we want to make a large increase because that is where we have got very important areas, and we want to restore lots of areas, but to suddenly make each one of these joint venture areas a no net loss, that seems to me we do not quite know what we have done or what the implications of how that would work.

It seems to me that what is really needed is the Fish and Wildlife Coordination Act, as she has indicated, is being taken seriously through our prior commission. I think all the agencies ought to take the Fish and Wildlife Coordination Act recommendation seriously, but to suddenly set up some new criteria for these joint venture areas, which are fairly loosely drawn areas on a map right now, there is no legislation establishing them. I just really do not know what we have done so I am concerned about the workability of it, Mr. Chairman, not the goals, but the workability of it.

Mr. **Studds**. Ms. Goldman-Carter, I will give you a chance to respond in a moment, but anybody else want to participate in this before we go back to her?

Ms. **Bach**. I would just make one brief comment that with regard to the permitting processes, it certainly involves at least two other areas, and is a fair enough subject of debate that may very well warrant its own forum, Mr. Chairman.

Mr. **Studds**. Anyone else want to respond to that before we go back to Ms. Goldman-Carter? Mr. Smolko.

Mr. **Smolko**. Yes. Thank you, Mr. Chairman. I think there are many areas which could be addressed, and when the plan was put together it was recognized that whether you are talking about environmental pollution, agriculture practices, those are ultimately affected by the various departments, particularly in the U.S., which control that, whether its EPA or the Agriculture Department, that there would come forth some specific recommendations that would then go back to those agencies and to the Congress in that regard to be addressed in that manner.

I think we run a danger here if we try to do too much with this straightforward piece of legislation that we have currently whose goal is to provide that stable source of funding.

Mr. STUDDS. Ms. Goldman-Carter, do you want to respond briefly to—I gather you do—to what Mr. Peterson had to say?

Ms. GOLDMAN-CARTER. Yes, I would. I am not sure I caught Max' thrust in his many arguments in a short period of time. But I would like to make sure we understand first that obviously the whole concept of no net loss that has been debated and has come out in President Bush's comments—it has been debated in the National Wetlands Policy forum—is not a terribly easy concept to put into practice.

So that is going to require some consideration, but what I do not think what is anticipated by this is that you are establishing waterfowl management areas of or waterfowl habitat areas of major concern as geographical units in which you are going to have to achieve the no net loss of wetlands. I think the most important clarification is probably that what we are talking about is a no net loss policy so that probably on a project by project basis or a permit by permit basis, the Fish and Wildlife Service and NMFS would be looking at their mitigation recommendations in the context of offsetting those wetland losses that are occurring due to that project. I do not think we are talking about the same type of no net loss concept we are in the forum in the sense that we are talking about making the lower Mississippi River achieve a net gain in wetlands for every loss that comes within that geographical area.

The other thing to make clear is that we are not talking about new criteria. We are primarily talking about making the existing Fish and Wildlife coordination act structure, which is already there—the Fish and Wildlife Service and NMFS comment now on Federal projects; they comment now on Federal permits. The difference is that they get some presumption of validity instead of being routinely ignored which they often are now. In last year's GAO hearings that were held in the House Public Works Committee looking at the administration of the 404 program, Fish and Wildlife Service Director Dunkle specifically offered that this was an area that could really use improvement and that the Fish and Wildlife Service needed to have a stronger place at the table so that when they are negotiating for Fish and Wildlife, people have to listen.

And I do think that because the Fish and Wildlife Service is going to be at the hub of this operation and because a lot of Federal money is going to be going into these areas, it is appropriate to look to strengthening their role in this program in this bill. Thank you.

Mr. STUDDS. Let me defer. I have more questions. Let me go for the moment to the gentleman from Virginia.

Mr. BATEMAN. Thank you, Mr. Chairman, and I join you in welcoming our witnesses this morning and thanking them for coming and bringing us their points of view in this legislation. I am intrigued by the provisions of the bill which I have not analyzed in any detail beyond what I have seen in the statements with reference to mandatory minimum percentages of funds which will be expended in Canada.

I would like to get into that area and inquire as to whether or not there is any provision in the bill or any contemplation in this legislation of minimum amounts of money or percentages of money available that would be expended in Mexico? Is there any understanding that the Canadians will spend minimum amounts of money? And generally, I guess, my point of view that I need to have you all expound upon is is it wise to set arbitrary minimums for each every year as to percentages of money that must be expended in Canada, Mexico, the United States as opposed to whatever the best plan or program that can be devised from time to time as we forward and spend it wherever it is best spent? Ms. Bach.

Ms. **Bach**. Mr. Bateman, I would like to take a shot at some of those questions. With regard to whether or not the plan calls for any mandatory spending on the part of the Canadian Government it does not. The plan describes the location of habitat and notes that 75 percent of the habitat for duck populations is in Canada and acknowledges that the expenditures of funds are something that are a shared responsibility both for Canada and the United States.

It does highlight the need for a partnership and the need for the pooling of resources, as I had referred to in my statement.

Mr. **Bateman**. Well, let me just tell you what basically is bothering me based upon current understanding of this. I am not opposed to the notion of spending up to 70 percent of the funds in Canadian habitat areas. Maybe it ought to be more. But I just sit here and think in terms of, gee, if I were a Canadian legislator, policy maker or allocator or resources, and I am looking at a provision in an Act of Congress that says a minimum of 50, up to 70 percent must be spent in Canada, it is almost an invitation perhaps for me to spend less Canadian dollars than I would otherwise spend if that provision was not there mandated by American law.

Does that give you all any concern?

Ms. **Bach**. It does give the Department concern from the standpoint that we are strongly in support of a dedicated trust fund which is to be matched with private sector dollars, but we do believe that you need to have flexibility in these instances where States may be providing additional dollars and perhaps the combination of State and private sector dollars may, in fact, exceed 50 percent, and I think the leverage availability ought to be in the legislation.

Mr. **Bateman**. Well, Mr. Chairman, before we have to go vote, if there are others who would like to join and share their point of view on this with me, I would appreciate it.

Mr. **Peterson**. Mr. Chairman, let me simply state that I think there is quite a bit of flexibility. The one thing about an assured funding is that it is leveraging money in Canada both from the Canadian Government and from the private sector. We may go three years in a row and spend all the Federal money in the United States, which is where most of the money goes today. If we do not have some kind of assured funding, with 75 percent of the habitats in Canada, we simply cannot do the job. Unless you hatch the little critters and get them started, whatever we do down here is not going to help very much.

So unless we discipline ourselves to consistently put some level of assured funding in Canada, it will not happen. Now there are some additional sources of funding for U.S. projects that have been raised earlier. The Migratory Bird Stamp provides funding. The Land and Water Conservation Fund provides funding. So the Secretary of Interior has a lot of other flexibility of acquiring land or doing other things in the States. We are simply talking about the money in these bills, which is not very much. The total could only be $25 million.

We are talking about a portion of this being stable, and we do provide some flexibility. We believe that if you provide too much flexibility, it means that nothing happens in Canada. We believe that is the real world.

Mr. **Smolko**. If I could expand on that as well. As it is currently written, I think what is critical here is that we are providing a minimum threshold of funds that would go to Canada. It is 50 percent. The maximum of 70 percent. And that is of the Federal monies that are made available, this interest that is made available through the Pittman-Robertson Fund. That money will then be matched 25 percent by private sector and then another 25 percent by the Canadian Government. So what you are talking about is that the actual dollars is leveraged one for one, or two for one there. So what we need, when looking at, and I am not sure—you may have a map that is available in the plan itself that identifies the habitat areas, which when you look at the Prairie Pothole Region that extends through Alberta and Saskatchewan as well as over into the Maritimes, that we have got 75 percent of the breeding habitat which is located in Canada, that if we can provide a basic level of funding from the Federal Government, which then has a basic level or component that is attached to it from the private sector, then the Canadian Government and to a lesser extent the Mexican Government then can budget accordingly, that is what is essential.

DU has recognized that the bulk of the work is in Canada and that is where we have been spending about 70 percent or 80 percent of our conservation dollar for 50 years. So that is what we are talking about there.

Mr. **Studds**. Let me just apologize to everybody. The voting has reached the stage where it is going to be impossible to resume after this vote because of other obligations of the members. I am going to try to quickly get in a couple more questions if I may. This one is for Ms. Bach. Ms. Goldman-Carter's testimony notes the importance of estuarine wetlands as a spawning and nursery ground for fish. She cautions that there may be an inclination to convert these salt water wetlands to fresh water wetlands to provide better duck habitat. Would you agree that projects funded under this legislation should not be designed to convert existing natural wetlands but rather to protect them?

Ms. **Bach**. Mr Chairman, if I could comment, I think the concern here is that in the management of these habitat areas that it reflect the diversity of wildlife that naturally exists, and to that extent I believe that there is a sense of acknowledgement that that, in fact, ought to occur.

Mr. STUDDS. Was that a yes or a no?

Ms. BACH. That was that I appreciate the comment that she has brought up and I do believe it is something that the Fish and Wildlife Service ought to look at in terms of implementing the plan.

Mr. STUDDS. That is part of the clear and unequivocal position of the Administration, I take it? OK.

Ms. BACH. That is the challenge, Mr. Chairman.

Mr. STUDDS. I understand the challenge, believe me. Mr. Peterson, the National Wildlife Federation's testimony suggests that this legislation be modified to more fully address the needs of non-game birds, who do not deserve that title, but we cannot think of a better one. It somehow suggests they are not spirited. Specifically, it proposes that the Fish and Wildlife Service be directed to identify land acquisition priorities for non-game birds and to try to establish international agreements modeled after the North American Plan for the protection of their habitat. What is your reaction to that proposal?

Mr. PETERSON. I think that is okay. It is a good idea because a lot of effort went into the North American Plan. There is some overlap with other migratory shore birds. There is probably some additional important areas for migratory birds that we have not identified. I think it would be a good idea to identify those. So we would support that.

Mr. STUDDS. I appreciate that. We do have a number of questions we may want to ask you each of you in writing given the limitations on time here. Let me again thank you for your patience and apologize for the interruptions, and let me reiterate my appreciation for the work of the non-governmental organizations.

Like so many people, you do not always get the credit you deserve, and those who understand and appreciate it are either literally or figuratively without voice very often. It is very much appreciated. Otherwise thank you all, and good luck to those who speak for the Administration. It is a challenge. And we will all do the best we can to listen as carefully as we can. The Subcommittee stands adjourned.

[Whereupon, at 11:45 a.m, the Subcommittee was adjourned subject to the call of the Chair.]

[The following was submitted for the record.]

UNIVERSITY OF MASSACHUSETTS
AT AMHERST

The Environmental Institute

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TELEX 948633

July 20, 1989

Congressman Gerry E. Studds
237 Cannon House Office
Building
Washington, DC 20515-2110

Dear Congressman Studds:

I write to support H.R. 2587 "North American Wetlands Conservation Act" and to speak to specifics of the proposal.

For many years I have served as a science advisor to Massachusetts state agencies and several federal agencies in the development of wetland conservation programs. Too often I have observed duplication and overlap among agencies. The proposal to incorporate the Advisory Committee within the existing structure of Migratory Bird Commission avoids the potential for duplication and overlap and I strongly support that concept.

In addition to my role within the U.S., I am an advisor on wetlands to the International Union for the Conservation of Nature and Natural Resources (IUCN). The United States in 1987 became a signatory nation to the Convention on Wetlands of International Importance, known as the Ramsar Convention. I served on the IUCN delegation to the most recent meeting of the contracting parties under the Convention in Regina, Canada.

Under Article 3, Sec. 1 of the Ramsar Convention, the United States has undertaken a treaty obligation to pursue conservation and wise use of all wetlands within U.S. jurisdiction. H.R. 2587 would, if enacted significantly support that national obligation under Ramsar.

I suggest that to Sec. 2.a. Findings, be added a new subsection:

(5) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as Waterfowl Habitat requires promotion of conservation and wise use of wetlands.

On the state level, recent research at this University has shown that Massachusetts has lost about one-half of its original freshwater wetlands. It will be essential that the remaining wetlands receive more protection than they have had in the past. More federal involvement in protection of the wetlands of federal/international significance will allow state agencies and town conservation commissions to apply their limited resources to the other wetlands of local and state importance.

Sincerely,

Joseph S Larson

Joseph S. Larson
Director

JSL:ljm

THE WILDLIFE LEGISLATIVE FUND OF AMERICA
To protect the Heritage of the American Sportsman to hunt, to fish and to trap.

1000 Connecticut Avenue, N.W.
Suite 1002
Washington, D.C. 20036
202/466-4407

July 24, 1989

The Honorable Gerry E. Studds
Chairman, Subcommittee on Fisheries and
Wildlife Conservation and the Environment
Committee on Merchant Marine and Fisheries
543 House Annex II
Washington, D.C. 20515

Dear Mr. Chairman:

The Wildlife Legislative Fund of America (WLFA) respectfully requests that this statement on the North American Waterfowl Management Plan and the two bills entitled North American Wetlands Conservation Act (H.R. 2322, H.R. 2587) be entered into the hearing record. The WLFA appreciates your consideration of such vital legislation for the preservation of wetlands and numerous species of wildlife and plants.

The Wildlife Legislative Fund of America is a non-profit organization whose purposes are to protect scientific wildlife management practices as well as represent sportsmen's organizations. We represent over one million sportsmen-conservations, all of whom regard the preservation of wetlands as fundamentally important.

The North American Waterfowl Management Plan was signed in 1986 by the U.S. Secretary of the Interior and the Canadian Minister of the Environment. We extol the authors of the Plan and the authors of H.R. 2322 and H.R. 2587 who realize the commitment that must be made by state, federal and private sectors to preserve these dwindling wetlands.

The legislation presented fulfills a portion of that commitment by appropriating funds from the federal government. Yet in order for these funds, such as the interest earned from Pittman-Robertson, to be effective, they must be done on a permanent basis and not be subjected to annual review.

Furthermore, to ensure the success of the Plan a North American Wetlands Conservation Commission should be established. This commission would report directly to the Secretary of Interior who would in turn consult the Migratory Bird Commission. To relegate the commission to just an advisory capacity would be unjust to the partners who provide over half of the funding.

The last point that needs to be made concerns the allocation of funds between Canada, Mexico and the U.S. In order for the Plan to be successful everyone must work together. That means

50 West Broad Street, Columbus, Ohio 43215 614/221-2684

sending the funds where they are most needed. Canada produces 75% of North America's waterfowl and needs our financial commitment to preserve this precious breeding habitat.

As a member of the North American Waterfowl Management Plan Implementation Board we thank you for allowing us to comment. I hope you will consider the points we made and a resolution is forthcoming. Every day postponed represents a loss of wetlands and a subsequent loss of wildlife.

Sincerely,

James H. Glass

James H. Glass
President

JHG:ef

cc: Rep. Robert W. Davis (MI)
Rep. Walter B. Jones (NC)
Rep. Arlan Stangeland (MN)
Rep. Robert Lindsay Thomas (GA)
Rep. Don Young (AK)

STATEMENT OF MARYANNE BACH, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT OF THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES, REGARDING H.R. 2322 AND H.R. 2587, TO IMPLEMENT THE NORTH AMERICAN WATERFOWL MANAGEMENT PLAN.

July 25, 1989

Mr. Chairman, I am Maryanne Bach, Deputy Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior. I appreciate the opportunity to be here today to discuss the Department's views on H.R. 2322, by Congressman Davis and other Members of the Committee, and H.R. 2587, by Congressman Silvio Conte, Mr. Dingell, Mr. Davis, and other Members, to implement North American Waterfowl Management Plan.

I would like to commend the sponsors of both bills for their interest and involvement in the North American Plan, and Chairman Studds for holding hearings on the legislation. Further, I would like to acknowldge the work of Senators Mitchell and Chafee on the Senate version of this legislation. We look forward to working with the Congress on fashioning a final legislative package which allows for the most efficient implementation and management of the Plan, and which meets the President's goal of signing implementation legislation this year.

I want to assure the Committee that the Department is very supportive of the Plan, an excellent vehicle for promoting international cooperation, parterships with the States and the private sector, and Federal interagency coordination of wetland protection and enhancement efforts.

The Department and this Administration also strongly support the goals of stable funding, as demonstrated by Secretary Lujan's June 6 statement endorsing the conversion of the Pittman-Robertson Fund into a trust fund, with the interest from that fund being available, without appropriation, to fund Plan projects. As you know, the President seconded that endorsement on June 8.

While the concepts are the same, we believe the legislation should provide a formal trust fund, mirroring the present Wallop-Breaux Fund, as proposed by Secretary Lujan, rather than the grant of authority for the Secretary of the Interior, as in H.R. 2322, or Treasury, as in H.R. 2587, to invest the unobligated balance of the fund. This approach, based on existing law and programs, would provide a more certain administration of the program.

Insofar as the authorization for an additional appropriation of $15 million is concerned, however, we view the Administration's annual budget submissions as our best vehicle for not only promoting additional spending by the Fish and Wildlife Service in support of the Plan, but also providing the opportunity for multi-agency involvement in Plan implementation and Joint Venture projects. Existing Administration initiatives on wetlands, as will be explained later in my statement, represent a considerable increase from previous levels of funding, and we may well have other opportunities in connection with the on-going development of Administration wetland policies.

Insofar as implementation structure is concerned, we recognize that the goals of the Plan are land protection and management. Both the United States and Canada realize that most of the waterfowl breeding grounds are in Canada, and that in the United States we need wetland habitat for the resulting waterfowl population, in addition to the inherent values of the wetlands themselves.

There are numerous other efforts in the Fish and Wildlife Service for wetlands enhancement and management, and acquisition efforts through both the Land and Water Conservation Fund annual appropriations and the Migratory Bird Conservation Conservation Commission's activities. The North American Waterfowl Management Plan itself has a Plan Committee, which contains both Federal and State representation on the United States side, and which is charged by the Plan with reviewing joint venture proposals and making recommendations to the American and Canadian governments. There is also the North American Plan Implementation Board, representing the private participants in the Joint Ventures.

We also have other government agencies, both within the Department (such as the Bureau of Reclamantion and Bureau of Land Management) and in other Departments (such as the Forest Service and the Department of the Army), which are becoming involved in Plan implementation activities.

It is from a desire for maximum flexibility in dealing with this existing universe of participants, and to promote the best management of our resources within the existing governmental framework, that we at the Department raise objections to a new structure dealing solely with recommending Plan projects to the Secretary. We also have concerns over possible conflicts between the makeup of the Commission or Committee proposed in the two bills and the requirements of the Federal Advisory Commission Act.

However, while we retain these concerns, we are willing to work cooperatively with the Committee and the joint venture participants to develop a format for assuring input into the decision-making from all parties.

Both bills require the Secretary to expend between 50 and 70 percent of available Federal funds in Canada each year. While we recognize that the Plan calls for a majority of the implementation funds to be expended in Canada, and strongly support the Plan, we oppose such an inflexible requirement for the use of Federal dollars. It could well be that in any given year the availability of the highest priority lands might be largely in the United States. To avoid having to spend scarce resources on lower priority lands, we recommend that the legislation provide flexibility to allocate funds in accordance with the highest priority projects ready for implementation. This could perhaps be accomplished by requiring that the funds be allocated in accordance with the provisions of the Plan and the agreement with Mexico, rather than in accordance with a fixed percentage to given locations. We also note that the Agreement with Mexico speaks to technical assistance and planning activities rather than land acquisition, a distinction not reflected the funding requirements of the legislation. We will be glad to work with the Committee on these issues.

Overall, we hope the legislation is limited to provisions that are consistant with the Plan as currently written. Expanding the scope of the Plan, changing the composition of the Migratory Bird Conservation Commission, or attaching related amendments, no matter how desirable such additional provisions might be on their own, can only cloud prospects for prompt passage.

I would like to highlight some of the new directions taken by this Administration in the area of land acquisition and wetlands protection and enhancement; directions discussed in more detail later in my statement.

The Administration's first budget request to Congress included $206 million for land acquisition, an increase of more than $180 million. Of the nearly $52 million requested for Fish and Wildlife Service acquisition, over $7.6 million has been requested for land acquisition at four projects of high priority to the Plan. These funds, if approved by Congress, will protect over 10,760 acres.

The Fish and Wildlife Service's budget request also includes a $6.8 million initiative for Plan implementation. Of that amount, $3.7 million would go for habitat restoration projects and $3.1 million for conservation easements and restoration projects under the Farm Bill.

ADMINISTRATION ACTION ON WETLANDS

On May 23 the Administration announced the establishment of an Inter-Agency Task Force on Wetlands under the auspices of the Domestic Policy Council, on which the Department is represented. The Task Force will --

- recommend ways to revise and strengthen the existing Executive Orders on wetlands protection and floodplain management;
- establish no-net-loss of wetlands as a national goal;
- provide clear direction to Federal agencies for strengthening, implementing and enforcing wetlands protection, maintenance and restoration;
- coordinate agency involvement in achieving the no-net-loss goal;
- study and recommend ways that the State and local governments and the private sector can be encouraged to support the no-net-loss goal;
- assess implementation of the no-net-loss goal to determine what further steps might be necessary; and

- solicit the views of State and local governments, and the private sector, on wetlands issues generally.

The activities of the Task Force should play a major role toward meeting the objectives of the United States portion of the North American Waterfowl Management Plan (Plan). We believe the activities already undertaken to implement the Plan, as I will discuss shortly, can serve as models for many of the Task Force's objectives. The Department of Interior will strongly advocate including Plan objectives in all aspects of the Council's recommendations.

DEPARTMENT OF INTERIOR ACTIVITIES

Secretary Lujan has formed a new Intra-Departmental Water Policy Council, to establish a coordinated approach to water management and policy development within the Department. He has also directed the Bureau of Reclamation to continue to give a high priority to the environmental implications of its activities and its new environmental initiatives. As an initial step in this direction, the Secretary has ordered the revision of the three draft Environmental Impact Statements previously issued by the Bureau for the sale to surplus water from the Central Valley Project in California. These documents will be re-issued for public comment in the future.

To prepare for the work of the Inter-Agency Task Force, the bureaus within the Department have initiated a review of all water- and wetlands-related aspects of their operations.

During January of this year, an agreement was signed between the Service and the Department of the Army to conserve and improve wetlands on more than 7 million acres managed by the Army Corps of Engineers. The properties include wetlands in navigation and flood control projects, many of which are important waterfowl habitat.

The Service also initiated discussions with the Bureau of Reclamation in which the Bureau would serve as the Plan's engineering and construction management agency. This would support Reclamation's new resource management mission and their efforts to conserve and enhance wetlands on the more than 8 million acres they manage.

The Fish and Wildlife Service's wetlands activities include land acquisition from the sale of "duck stamps", as approved by the Migratory Bird Conservation Commission. In fiscal year 1988, the Service acquired 65,846 acres using $31.7 million from the Migratory Bird Conservation Fund. A total of $29.4 million is available to the Commission in fiscal year 1989; more than $14 million has been obligated to acquire more than 32,000 acres.

In addition, Dr. Ralph Morgenweck of the Fish and Wildlife Service testified at length about the Service's overall wetlands activities before the Subcommittee on May 17th, and I will not repeat his testimony today.

NORTH AMERICAN WATERFOWL MANAGEMENT PLAN

The Fish and Wildlife Service is implementing the North American Waterfowl Management Plan, an agreement signed by Canada and the United States that relies on wetland habitat protection, restoration, and enhancement to restore the continent's waterfowl populations to the numbers that had occurred in the early 1970's. Drought and the draining of low-lying land for agriculture and other development contributed to a drop in the continent's fall flight of waterfowl from 80 to 100 million ducks during 1970-79 to a record low of 62 million in 1985. The 1988 fall flight was only 66 million.

Major components of the Plan include: (1) establishment of population goals for ducks, geese and swans to be met by the year 2000 and of habitat protection goals for the U.S. and Canada, (2) recommended joint ventures between private and public entities to attain these goals, (3) research and development of surveys and data bases, and (4) listing of approaches to protect and manage wetlands. This Plan has targeted more than five million acres of key waterfowl habitat for protection in the U.S. and Canada through critical areas, providing incentives to private owners for restoration of wetlands, and improving habitat on existing wildlife refuges, military bases, and other public lands.

An important aspect of the Plan is the development of joint ventures. Nine joint ventures are underway, six of which are U.S. habitat ventures. One large Canadian joint venture, the Canadian Prairie Habitat Joint Venture, has also been undertaken. In addition, two species-specific ventures involving the black duck and Arctic nesting geese are also being pursued.

These joint ventures are:

- the Central Valley of California;
- "Prairie Pothole" area, including portions of Montana, North and South Dakota, Minnesota and Iowa;
- the Lower Mississippi River Valley region;
- the Gulf Coast;
- the Atlantic Coast, from Maine to South Carolina;
- the Lower Great Lakes/St. Lawrence River Basin (U.S. side only);
- Prairie-Parkland Provinces in Canada;
- portions of five eastern Canadian Provinces; and
- two species-management projects, for Black Ducks and Arctic Canada Geese.

In each of these joint ventures, "flagship" projects have been identified, and conservation measures are underway. These include cooperative management actions, acquisition of land and conservation easements, utilization of the Conservation Reserve Program and other measures.

Cooperative management actions include annual rental payments to landowners who follow certain land management guidelines, such as fencing to keep predators away from duck nesting habitat, wetlands restoration work on private lands using Service equipment and personnel, delaying of hay harvest on nesting cover area until after the nesting season, and switching to fall-seeded crops to avoid spring tillage of nesting areas. In many cases these actions are taken in conjunction with the Conservation Reserve Program of the Food Security Act.

The Service also provides extension services to landowners to assist them in making environmentally sound use of their land, and provides assistance to Department of Agriculture agencies in Farm Bill implementation.

Over $48 million was contributed from State and private sources toward the joint ventures in fiscal year 1988, including $6 million (to be matched by Canadian funds) for use in the Canadian prairie provinces. Over $53 million is expected to be available this year.

PROVISIONS OF H.R. 2322 AND H.R. 2587

H.R. 2322 would establish a North American Wetlands Conservation Commission, consisting of the Director of the Fish and Wildlife Service, the Secretary of the Board of the National Fish and Wildlife Foundation, and seven Secretarial appointees, four of whom would be State fish and wildlife agency heads representing the flyways, and three of whom would represent non-profit groups involved in implementing the North American Waterfowl Management Plan. In addition, the Secretary would appoint an alternative Commissioner who is knowledgeable in fish, wildlife and wetlands conservation, who would perform the duties of any other Commissioner who was absent from a meeting or whose seat was vacant. Commissioners would serve six-year terms.

The Secretary is also encouraged in both H.R. 2322 and H.R. 2587 to include, as ex officio, non-voting members, representatives of the Federal, provincial, State or territorial governments of Canada and Mexico, of other Federal agencies, and of Native American interests who are involved in wetlands conservation projects under the Act or the Plan.

The Commission is charged with recommending wetlands conservation projects to the Secretary based on: availability of funds under the Act; extent of joint public-private sector participation in the project; consistency with the National Wetlands Priority Conservation Plan provided in section 302 of the Emergency Wetlands Resources Act and the purposes of this Act and the Plan; the extent to which it would aid in conservation of migratory non-game birds and species which are listed or candidates for listing under the Endangered Species Act; the substantiality of the project; and the recommendations from existing partnerships between public and private agencies carrying out wetlands conservation projects under the Act or the Plan.

The Commission will make recommendations to the Secretary by March 30 of each year for projects to be funded under the Act, in priority order. The Secretary, in consultation with the Migratory Bird Conservation Commission, shall approve funding for the projects so recommended unless he determines that a recommended project does not meet the requirements for consideration. In that case he is required to notify the Commission and Congress in writing of his reasons.

All lands in the United States acquired in whole or part by the Secretary with the funds made available by this Act must be included in the National Wildlife Refuge System, except that the Secretary may convey without cost any lands so acquired to a State, or any private entity approved by the State. Restrictions are provided regarding the conversion of such transferred lands to other uses, and the Secretary is prohibited from utilizing any funds provided by the Act for acquisition of lands for the Refuge System in any year in which there is not full funding for the Refuge Revenue Sharing Fund.

The Secretary is explicitly authorized to grant or otherwise make available to public and private entities in Canada and Mexico the Federal funds made available by the bill, for the purpose of carrying out wetlands conservation projects recommended by the Commission and approved by the Secretary. The bill requires that any provision of funds for such foreign projects is subject to a requirement that any real property interests acquired in whole or part by the Federal funds will be administered for long-term conservation and management of fish and wildlife and will provide for appropriate public access and use.

Funding is provided by requiring the Secretary to invest the portion of the Pittman-Robertson Fund not required for current withdrawals in interest-bearing obligations of the United States. This interest would become available for funding projects approved under the Act, without appropriation, until the year 2001, at which time it would be added to the amounts available for allocation to the States under the Pittman-Robertson Act. In addition, the Act authorizes the appropriation of the sums received as penalties, fines and forfeitures of property under the Migratory Bird Treaty Act and, through fiscal year 1993, an additional amount not to exceed $15,000,000.

The Secretary is required to expend at least 50 percent, and not more than 70 percent (less not more than 4 percent for administrative costs) of the available funds for projects in Canada and Mexico, and the remainder in the United States. Such funds may pay not to exceed 75 percent of the project costs in Canada and Mexico, and 50 percent of the costs in the United States, except that projects on Federal land may be fully funded. The Secretary is authorized to make partial payments, and to make agreements for future payments, subject to funding availability.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands is required, subject to the mission of the agency and existing statutory authorities, to cooperate with the Director in restoring, protecting and enhancing wetland ecosystems and other wildlife habitat within their jurisdiction. Agency heads are required to give priority in any land disposal to the transfer of real property interests for conservation purposes if that would contribute to the purposes of the Act and goals of the Plan. The Secretary is required to report project status and costs to Congress annually; to report on overall wetlands protection and restoration activities, and migratory bird population trends, every two years; and to undertake revision of the Plan in cooperation with Canada and Mexico in 1991 and every five years thereafter.

The bill makes standard provisions for administrative services for the Commission, provides that it does not alter the Secretary's authority to acquire lands under any other statute, prohibits any use of funds it makes available for mitigation purposes under the Fish and Wildlife Coordination Act or the Water Resources Development Act of 1986, and prohibits the use of any Federal funds in the non-Federal share of projects funded under the Act.

H.R. 2587 establishes an Advisory Committee to the Migratory Bird Conservation Commission, with the same membership as the Commission established by H.R. 2322. However, the Migratory Bird Commission would be the approval authority, rather than the Secretary.

H.R. 2587 would remove the Secretary of Transportation from the Migratory Bird Commission, and replace him with the Administrator of the Environmental Protection Administration. The Chairman of the new Advisory Committee would also become an ex officio member of the Commission for the purpose of voting on projects recommended by the Committee, a role granted under current law to States in which projects before the Commission are located.

The bill requires that land acquisition must be from willing sellers, and requires provisions for "appropriate public access" to all acquired lands.

It requires the Secrtary of the Treasury, rather than the Secretary of the Interior as in H.R. 2322, to invest the unobligated revenues from the Pittman-Robertson Fund in interest-bearing securities. As in H.R. 2322, the interest from these securities would be available, without further appropriation, to carry out the provisions of the legislation.

H.R. 2587 provides that, except for amounts used for paying rewards, or amounts required to be deposited in the cooperative endangered species conservation fund or made available for the costs of temporary care, both as provided by section 11(d) of the Endangered Species Act, all amounts received as fines penalties and proceeds of seizures and forfeitures from Fish and Wildlife Service law enforcement activities will be deposited in the Refuge Revenue Sharing Fund.

It also provides that no administrative services assessments may be made against the Migratory Bird Conservation Fund except for personnel administrative costs related to acquisition of real property.

H.R. 2587 is generally similar to H.R. 2322 in its other provisions.

We are opposed to the willing seller provisions of H.R. 2587, and to the public access provisions of both bills. Although the Fish and Wildlife Service has been an infrequent user of condemnation, that power is essential to ensure protection of the lands we would be acquiring. Without it, we would be powerless to act in those rare but forseeable instances in which a landowner prepares to undertake action which would adversely affect his and adjoining lands, lands either already in public ownership or essential to an ongoing project.

In addition, existing law and regulations provide that elements of the National Wildlife Refuge System are closed to public access unless the Fish and Wildlife Service takes action to open them. Although the Service does all that it can to permit a wide variety of public uses on refuges, public access is sometimes not compatible with the protection, enhancement, restoration or management of wildlife populations. We believe the public access standard in these bills would reverse existing standards, making it much more difficult to protection areas such as bird nesting habitat from public disturbance, and should accordingly be deleted.

We believe the detailed provisions for ex officio membership in the Commission or Committee, as the case may be, are inappropriate. This matter could best be addressed in report language directing the Secretary to provide ex officio membership where appropriate, consistant with the goals of the Plan. Similarly, we see no need for diverting the resources made available under these bills for reimbursement of expenses for Commission or Committee members. All members of either body are to be selected as representatives of State agencies, or of private organizations. These entities can surely pay the for their representatives' travel.

The provisions of Section 10 of both bills, relating to other agencies' cooperation with the Fish and Wildlife Service in implementing the Plan, require such cooperation to be consistant with the mission of the agency and existing statutory authority. Since no new law is embodied in the section, it too would best be addressed in report language.

We also have suggestions for a number of technical amendments, recommended by the Fish and Wildlife Service and largely adopted by the Senate Committee on Enviroment and Public Works during its markup of S. 804, on which we will be glad to work with you.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you may have.

International Association of Fish and Wildlife Agencies
(Organized July 20, 1902)
Hall of the States
444 North Capitol St. NW, Suite 534, Washington, DC 20001 (202) 624-7890
R. Max Peterson, Executive Vice President
I.A.F.W.A.

Statement of the
International Association of Fish and Wildlife Agencies
on the North American Waterfowl Management Plan
and H.R. 2322 and H.R. 2587,
the North American Wetlands Conservation Act,
before the Subcommittee on Fish and Wildlife Conservation
and the Environment
25 July 1989

Mr. Chairman and members of the Committee, the International Association of Fish and Wildlife Agencies (Association), which represents the 50 state fish and wildlife agencies, appreciates the opportunity to present the Association's views on the North American Waterfowl Management Plan and the two bills entitled North American Wetlands Conservation Act (H.R. 2322, H.R. 2587). We appreciate and are heartened by the Committee's consideration of the North American Wetland Conservation Act and other wetlands conservation issues.

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The Association applauds Representatives Davis and Conte for introducing, respectively, H.R. 2322 and H.R. 2587. One of the major benefits of either bill would be to provide substained support for implementation of the North American Waterfowl Management Plan (Plan). The Plan, signed in 1986, is the culmination of ten years of effort by the most experienced waterfowl specialists in North America. The Plan outlines the steps needed to protect habitat vital to continental waterfowl populations. This habitat protection will include wetland restoration, enhancement, and acquisition. We believe that there has been a misconception that the Plan, and the North American Wetlands Conservation Act, are just another federal land acquisition program. The Plan is much more than that. First, it is a strong partnership, a partnership of equals, of the states and provinces, federal governments, and private organizations in the United States, Canada, and Mexico. Second, the Plan uses a combination of restoration, enhancement, and acquisition as best fits the needs of an individual project within each joint venture area. Third, the Plan is an ambitious effort for North

America including the United States, Canada, and Mexico, which requires major financial commitments by federal, state and provincial, and private interests. The North American Wetlands Conservation Act would provide the integral U.S. federal component of funding the Plan.

It is absolutely essential that federal legislation build and strengthen the partnership already in place and that the private and state funding mechanism be encouraged. Equally important is the need to recognize that most of the work to be done involves restoration, protection and enhancement of wetlands that are now in private ownership and expected to remain privately owned. A variety of mechanisms such as easements, purchase of easements and long agrements have been effectively used.

Wetland habitat is also of great importance to other migratory birds, such as shorebirds, and other fish and wildlife species. For example, the flagship project of the Plan's Atlantic Coast Joint Venture is the Cape May National Wildlife Refuge. This new refuge is part of a coordinated federal, state, and private effort to protect the lower Delaware Bay, and are vital to over one million migrating shorebirds each spring.

There are currently many laws to protect wetlands, including the Food Security Act (Farm Bill), Water Resources Development Act, Fish and Wildlife Coordination Act, and Emergency Wetland Resources Act. However, these laws have not been sufficient to protect our remaining wetlands. There is a consensus that we need to do much more to protect wetlands but there is not agreement on how this should be carried out. The North American Wetlands Conservation Act is a start. It would promote public/private efforts to protect priority wetlands while this policy discussion continues. The Act would provide a major tool in efforts to maintain and restore migratory bird populations, as well as other wetland dependent fish and wildlife populations. As mentioned earlier, the Act is a key component in implementing the North American Waterfowl Management Plan, which has been a major policy initiative of the States, Provinces, United States, Canada, and many private conservation groups.

The States, through the Association, have discussed obtaining the interest earned on unobligated Federal Aid in Wildlife Restoration (Pittman-Robertson) Funds, a practice currently used with the Aquatic Resources Trust (Wallop-Breaux) Fund. To date, this has not been feasible to make this desired change in the Pittman-Robertson Fund. H.R. 2322 and H.R. 2587 both provide a mechanism to use the interest earned on unobligated Pittman-Robertson funds for wetland acquisition under the Act. This would be done without reducing the basic Pittman-Robertson funds to the States and without any changes in the States' current procedures or authority for using Pittman-Robertson funds. After the year 2000 and full Plan implementation, these funds would be added to, and become part of, the regular apportionments to the states under the Pittman-Robertson Act, which is a long term goal of the Association. The Association recommends that Section 7 be amended to provide a date certain by which this interest money will be available as a regular part of the Pittman-Robertson program. We recommend that this date be 15 years after enactment of the Act or the year 2006. The year 2006, which was added to S. 804 in the Senate last week, was chosen because it would be 20 years after the Plan was approved by the United States and Canada. This idea would allow the first five years of the Plan as "genesis" years and the following 15 years for strong implementation. In addition, the Association reaffirms its long-standing opposition to any changes that affect the basic funding mechanism to the States, or eligibility for use, of the Pittman-Robertson fund.

One of the major concerns of the Association that the partners which provide at least 50% of the funding have a strong, statutory role for determining project priorities under the Act. H.R. 2322, similar to S. 804, establishes a Commission that evaluates and prioritizes wetlands conservation projects. These go to the Secretary of Interior for final action by him. The Act further directs the Secretary to consult with the Migratory Bird Conservation Commission (MBCC) in approving the projects recommended by the North American Wetlands Conservation Commission (NAWCC) pursuant to the Act.

H.R. 2587 would make this group simply an advisory committee to the MBCC, which would make final decisions on wetland conservation projects. This weak advisory role of the state and private partners is simply not consistent with the basic partnership principles of the Plan. We strongly favor the Commission as outlined in S. 804 and H.R. 2322. The MBCC has done a wonderful job in acquiring lands for wildlife refuges with Duck Stamp monies over the past 50 years. There needs to be a cooperative, committed relationship with the MBCC. We believe this cooperating relationship can be developed and maintained without relegating the North American Waterfowl Management Plan partners to a weak, secondary position.

Both H.R. 2322 and H.R. 2587 contain provisions related to the Refuge Revenue Sharing Act (RRSA). Howver, neither bill fully addresses the problems of undependable and insufficient RRSA payments to counties. Currently there is no way to determine whether, or at what level, the federal government will meet its obligation to the counties each year. Without such assurance, many counties simply will not agree to additional land acquisition for wildlife refuges. The punitive measures in H.R. 2322 holds U.S. projects under the Act hostage to full RRSA payments. H.R. 2587 proposes adding fines and penalties under the Migratory Bird Treaty Act, and other laws, to fund RRSA. These penalties and fines, however, do not meet the full obligations under RRSA. We recommend substituting language similar to that contained in H.R. 2746, the Refuge Revenue Sharing Act of 1989, in place of the provisions in H.R. 2322 or H.R. 2587. H.R. 2746 proposes to use undesignated Department of Interior receipts (now over $2 billion) to fully fund RRSA which would require about $12 million annually or about $6-7 million more than currently appropriated. Equally important it would provide an assured source of funding. Private individuals are expected to pay real estate taxes each year. The federal government should set an example of prompt, appropriate payments to offset the loss of tax base when lands are acquired for wildlife refuges.

In summary, we believe that the North American Waterfowl Management Plan is a unique opportunity for federal, state, and private organizations to cooperatively protect and manage wetland habitat. The North American Wetlands Conservation Act would provide a mechanism for strong U.S. federal participation in the Plan. In addition, the Act would provide for protecting habitat in Canada where 75% of North America's waterfowl in produced. We would be pleased to work with the Committee to enact the North American Wetlands Conservation Act.

Working for the Nature of Tomorrow®
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STATEMENT OF

THE NATIONAL WILDLIFE FEDERATION

BEFORE

THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE

ON

H.R. 2322 AND H.R. 2587

A BILL TO CONSERVE NORTH AMERICAN WETLAND ECOSYSTEMS AND WATERFOWL AND THE OTHER MIGRATORY BIRDS AND FISH AND WILDLIFE THAT DEPEND UPON SUCH HABITATS

presented by

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prepared by

Fisheries and Wildlife Division
National Wildlife Federation

July 25, 1989

Mr. Chairman and Members of the Subcommittee, the National Wildlife Federation (NWF) appreciates the opportunity to provide this statement on H.R. 2322 and 2587, both to be entitled the North American Wetlands Conservation Act (NAWCA). This statement is submitted on behalf of NWF's 5.8 million members and supporters. We have a longstanding interest and commitment to the protection and wise stewardship of the Nation's wetlands. We support the broad objectives embodied in the North American Waterfowl Management Plan ("Plan") and endorse the general purposes of H.R. 2322 and 2587, set forth in Section 2(b) of the bill.

The Nation's Citizens And Its Public Servants Recognize The Need To Put An End To The Loss Of Wetlands

> *My position on wetlands is straightforward: All existing wetlands, no matter how small, should be preserved.*
>
> *I believe this should be our national goal--no net loss of wetlands. We can't afford to lose the half of America's wetlands that still remains.*
>
> *America must better protect its wetlands, which comprise bogs, marshes, swamps, and other similar areas that produce numerous benefits for society.*

These quotes are not from the latest issue of the Sierra Club's National News Report, The Wilderness Society's Wilderness, or the testimony of a national environmental organization. They are the words of President George Bush.[1] Although many have dismissed these statements as political rhetoric, they are --in our opinion-- of considerable moment. The President's proclamation of a national "no net loss" policy and his commitment to Congress to "the preservation of the Nation's remaining wetlands, working with the States to slow and eventually stop the loss" reflect a new and deepened awareness and concern for the loss of our Nation's wetlands. To us, it is a clear indication that the tide of public opinion is rising rapidly and our public servants are convinced it will no longer be "business as usual" for those who profit from the permanent alteration and destruction of the Nation's rich and valuable wetlands heritage.

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[1] Quoted from Sports Afield Magazine, October 1988, and The President's FY 1990 Budget Address to Congress, submitted February 9, 1989.

Not since the late 1970's have wetlands captured the attention of the Administration and the Congress or stimulated government to seek improvement in the manner in which the Nation manages and protects its wetlands. Even the U.S. Army Corps of Engineers is rallying to protect wetlands and underscores its commitment with statements like, "we wholeheartedly support the President's initiative to strengthen existing Federal programs and regulations that protect, maintain, and restore wetlands"...and we..."feel strongly that something must be done to both minimize and to turn back the clock on wetland losses." [2] The Environmental Protection Agency has endorsed the no net loss policy, and has issued an "Action Plan" charting its course in implementing the policy. The 101st Congress is six months old and at least 12 wetland bills,[3] including H.R. 2322 and 2587, have already been introduced, with more bills likely to come.

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[2] Testimony of John Doyle, Jr. before the Fisheries and Wildlife Conservation and the Environment Subcommittee of the House Committee on Merchant Marine and Fisheries. May 17, 1989.

[3] S. 630, S. 724, S. 804, H.R. 824, S. 970, S. 1063, H.R. 1070, H.R. 1526, H.R. 1727, H.R.1746, H.R. 2322 and H.R. 2587.

The NAWCA Is An Important Beginning To Realization Of The President's Wetlands Protection Goal Of No Net Loss

As previously mentioned, President Bush has announced his unqualified support for a national wetlands protection goal of no net loss. Specifically,

> *The President will immediately establish a wetlands inter-agency task force under the Domestic Policy Council. The task force will recommend ways to revise and strengthen the current Presidential executive order on wetlands protection.* _*This will include establishment of no net loss as a national goal and clear direction to Federal agencies to work toward this goal to the extent feasible under current law.*_[4] (emphasis provided)

These are words not to be lightly dismissed. Conservationists and the Congress must now look to Mr. Bush and his staff to ensure fulfillment of his repeated pledge to the Nation.

Admittedly, the concept of "no net loss" is one subject to broad interpretation. Yet clearly it must involve a combination of efforts to significantly reduce future wetland losses and to restore and protect previously converted wetlands. Just as clearly, the only alternative to _no_ net loss is _some_ net loss and that --in our view-- is unacceptable.

The North American Wetland Conservation Act offers an important opportunity to respond to the Administration's promise of no net loss and to formalize the concept in law. Although accomplishing a national goal of no net loss of wetlands will require a mix of new and existing approaches including both regulatory and nonregulatory strategies, the North American Wetland Conservation Act --while primarily an acquisition instrument-- provides a timely vehicle for translating into action what has thus far largely been discussion. An important beginning, therefore, is to incorporate specific reference to the no net loss goal into the Act and to elaborate on how the legislation promotes this meritorious proposal being advanced by the President himself.

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[4] The President's FY 1990 Budget Address to Congress, submitted February 9, 1989.

Putting the NAWCA into the broader framework of a national no net loss policy not only furthers the President's wetlands agenda, but that of the North American Waterfowl Management Plan authors themselves. The Plan acknowledges -- in no uncertain terms -- that, "[t]he loss and degradation of habitat is *the major waterfowl management problem in North America*." Plan at 9. The importance of the no net loss policy to the proponents of the Plan is demonstrated by President Bush's vigorous reaffirmation of the goal in his speech to the Ducks Unlimited Sixth International Waterfowl Symposium in Arlington, Virginia on June 8th:

> *It's time to stand the history of wetlands destruction on its head: from this year forward, anyone who tries to drain the swamp is going to be up to his ears in alligators.*

The authors of the Plan specifically recognize that acquisition alone will never get the job done, and that a combination of financial incentives to agricultural producers, acquisition, zoning and wetlands regulation, and soil, water, and wetland conservation measures will be required to achieve the goals of the Plan. Plan at 14. The U.S. Fish and Wildlife Service (FWS) and the Soil Conservation Service estimate that of the 95 million acres of wetlands remaining in the United States, 12.5 million acres (13.2%) are in federal ownership, 10.4 million acres (10.9%) are in state ownership, and 1.8 million acres (2.0%) are in local government ownership.[5] Said differently, 70.3 million acres (74.0%) of the Nation's wetlands are in private ownership and subject to conversion and/or permanent alteration.

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[5] Personal communication with Dale Pierce, U.S. Fish and Wildlife Service, Washington, D.C. May 30, 1989.

Although many believe the conservation provisions of the 1985 Food Security Act (FSA) [6] offer promise to protect these vulnerable wetlands from agricultural conversion, probably fewer than two million acres --only about 2% of the Nation's remaining wetlands-- are likely to be protected by Swampbuster and other FSA authorities. Based on Conservation Reserve Program rental rates of $48.50 per acre, the cost of protecting even 5 million of the most vulnerable wetland acres from agricultural conversion would be about $2.5 billion. Obviously, acquisition efforts must be augmented by other programs if a national goal of no net loss and the goals of the Plan are to be achieved.

Clearly, the goal of no net loss of wetlands is a goal common to both the North American Waterfowl Management Plan and the President. H.R. 2322 and 2587 provide important and sound measures which contribute to the achievement of that goal. The National Wildlife Federation urges this Subcommittee to consider additional measures for inclusion in the NAWCA which bring us closer to achieving no net loss of our Nation's wetlands. We offer some suggestions for your consideration.

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[6] For example, Swampbuster, transfer of FmHA inventory lands with permanent easements, and CRP payments for restored bottomland hardwoods and "cropped wetlands."

Wetland Ecosystems Of North America Provide Numerous Benefits To Society

As recited in Section 2(a) of both H.R. 2322 and 2587, wetlands provide society an array of economic and ecological functions and values. There is voluminous documentation of these functions and values in the scientific literature.[7] Although much work remains to be done in refining our ability to quantify more precisely many of these values, the President recognizes the many societal benefits and functions of wetlands:

> *....[wetlands] produce numerous benefits for society. They help to maintain water quality by filtering out pollutants and sediments. They serve to control erosion by trapping soil washed from nearby farmlands. They play an important role in reducing flooding problems by temporarily storing large quantities of water and by slowing the velocity of flood waters. Finally, they are sources of recreation, timber, and other natural products for commercial use.* [8]

Although the NAWCA is fundamentally an effort to "institutionalize" the North American Waterfowl Management Plan and to provide a permanent funding source for its execution, it is important the Subcommittee not lose sight of the many benefits wetlands provide the American public in addition to breeding, staging, and overwintering habitat for waterfowl. The bill must recognize and accommodate the full complement of services wetlands provide, including their value as habitats for rare and endangered species, important spawning and nursery areas for a variety of commercial and recreational fish and shellfish, sites for scientific research and study, places of recreation and aesthetic appreciation, and their often significant role in influencing local and regional hydrologic regimes.

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[7] For example, see Kusler, J.A. 1983. Our national wetlands heritage. Environmental Law Institute. Washington, D.C.; U.S. Congress Office of Technology Assessment. 1984. Wetlands: their use and regulation. U.S. Government Printing Office. Washington, D.C.; and Feierabend, J.S. and J.M Zelazny. 1987. Status report on our nation's wetlands. National Wildlife Federation. Washington, D.C.

[8] The President's FY 1990 Budget Address to Congress, submitted February 9, 1989.

For example, wetlands are important in maintaining abundant and well-distributed nongame migratory bird populations. According to the FWS, the majority (57%) of nongame birds listed as species of management concern (i.e., generally those species considered to be in decline) forage in wetlands.[9] In addition, 47% of those listed species are associated with coastal and freshwater wetlands and beaches, compared to 33% requiring open woodlands and forests, 20% requiring fields or grasslands, and 20% requiring mixed habitats. Wetland projects funded through the NAWCA must recognize the importance of wetlands to nongame bird populations and, at a minimum, maintain those habitat functions.

Similarly, estuarine systems provide critical spawning and nursery areas for a number of commercially- and recreationally-important fish and shellfish species. For example, in the Southeast coastal region of the United States, 96% of the commercial and more than 50% of the sport fish and shellfish harvests are composed of species that depend on estuaries for all or part of their life cycle. In Louisiana, catches of shrimp and menhaden alone have a dockside value of $200 million. Striped bass, red drum, and speckled sea trout are other good examples of important sport and commercially-caught species dependent on healthy estuarine wetland ecosystems. These and other species sought by recreational anglers support a marine sport fishing industry valued at over $7.5 billion annually. NAWCA-funded projects should be maintaining and enhancing these vital wetland systems

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[9] U.S. Fish and Wildlife Service. 1987. Migratory nongame birds of management concern in the United States: the 1987 list. Office of Migratory Bird Management. Washington, D.C.

Just as the wetlands themselves and the functions they serve are diverse, so are the "user groups" and "wetland constituents" who have a stake in wetlands protection. Their considerable influence should not be overlooked as deliberations on the North American Wetland Conservation Act evolve. Such groups include politically-active individuals, citizen organizations and coalitions, such as local "Wetland Watchers" and regional "Save the Bay" associations, as well as national groups, like the Nongame Association of North America, the Environmental Defense Fund, and the International Council for Bird Preservation - U.S. Section. While H.R. 2322 and 2587 correctly recognize the plight of North America's declining waterfowl resource and are designed largely to stabilize and reverse these declines, the diversity of the wetlands themselves and the many groups with a commitment to their protection require that the scope and focus of this legislation remain broad.

The North American Wetland Conservation Act Embodies Several Critical Provisions

The NAWCA contains several elements which advance key policies. First, it is fiscally conservative and builds on the "user fee" concept that has broad congressional acceptance. This approach is at the heart of some of the Nation's most successful conservation programs, including the Federal Aid in Sport Fish Restoration Act (P.L.98-369), the Migratory Bird Hunting Stamp Act (16 U.S.C. 718-718h), and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(b)), which this legislation amends. There is every reason to apply the "user fee" approach to funding wetlands conservation efforts and we urge the Subcommittee to maintain this important element of the legislation.

Second, the legislation embraces and promotes true wetland conservation "partnerships." Specifically, the cost-share requirements set out in Sections 8(b) and (c) establishing non-Federal matching funds is a proven approach to stretching limited conservation dollars. There is considerable experience with the "cost share" programs so successfully utilized by the U.S. Forest System, the Bureau of Land Management, and, most recently, the FWS. The National Fish and Wildlife Foundation (Foundation) has also established an enviable track record in securing private money to match Federal dollars to accomplish important and lasting conservation projects. For example, in FY 1988, the Foundation secured $4 million to help advance the North American Waterfowl Management Plan and completed 31 other fish and wildlife conservation projects, all involving private matching funds. Private-Federal partnerships are an increasingly popular way to magnify diminishing Federal monies for conservation programs, and there is no reason why this approach should not be adopted, as it is in the legislation, for wetlands conservation.

Third, by amending 16 U.S.C. 669b(b) (Pittman-Robertson) to dedicate the interest monies, by dedicating fines collected pursuant to the Migratory Bird Treaty Act, 16 U.S.C. 707, and by authorizing new appropriations, the NAWCA for the first time provides for a relatively stable and predictable source of funds for wetlands projects, including acquisitions. This is one of the bill's strongest elements and it is one we support vigorously. Currently, the majority of the Federal wetlands acquisition programs are subject to annual appropriations and funding for these programs can fluctuate dramatically from year to year. Further, there is no mechanism currently in place to provide for the continuous funding of wetland restoration projects. This legislation would eliminate this instability and provide an important impetus to slowing the continuing loss of the Nation's wetlands.

Finally, Section 9 of both H.R. 2322 and 2587 relate to the deepening shortfalls in annual appropriations for the Refuge Revenue Sharing Act (RRSA, 16 U.S.C. 715s(d)), an issue that has become increasingly sensitive and now has the potential to hamstring many important wetland acquisitions contemplated by the FWS. For example, the FY 1990 shortfall in payments to local governments is estimated to be in excess of $6 million. The impact of these shortfalls has been that at least 25 counties in five states will disapprove FWS wetland acquisition requests until full payments are assured. While we support the general concept of this section and strongly agree that annual shortfalls in payments be made up by means other than the interest money from unobligated Federal Aid in Wildlife Restoration funds, we also recognize that the section does not resolve the issue of shortfalls in annual appropriations for the RRSA. Therefore, we urge the Committee to continue its deliberations on ways to address and resolve this growing problem permanently. One such way may be by expanding the base source of revenue for the Refuge Revenue Sharing Act as proposed in H.R.2746, wherein receipts to the Department of Interior, which would normally return to the general treasury, would make up shortfalls in the Refuge Revenue Sharing

Fund.

In the interim, we recommend the Subcommittee adopt section 9 in H.R.2587, in lieu of section 9 in H.R. 2322, so that penalties and fines under the Migratory Bird Treaty Act would be deposited to the Refuge Revenue Sharing Fund, and other funds provided by this legislation would not be restricted for acquiring and adding lands into the National Wildlife Refuge System.

Considerations For Strengthening The Wetlands Conservation Potential of the North American Wetlands Conservation Act

The NAWCA is comprehensive, detailed, and has the potential to advance wetlands protection in the United States as well as abroad. Many of its provisions are innovative and offer new hope for the Nation's diminished wetlands inventory. However, there are ways in which the legislation might be broadened in its scope to provide a more comprehensive legislative framework for wetlands conservation.

1. Consider Including Provisions to Implement The Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar).

First, the NAWCA may provide opportunities for the U.S. to enhance its commitment to The Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar). This Convention, concluded in Ramsar, Iran in 1971, was ratified by the United States in 1985. On April 18, 1987, the U.S. became full party to the Convention. One primary purpose of Ramsar is to list wetlands of international significance, highlight the values of these sites, and formulate and implement planning so as to promote the conservation of these areas.

To date, the United States has listed seven Ramsar sites. These include Ash

Meadows National Wildlife Refuge (NV), Forsythe National Wildlife Refuge (NJ), Izembeck National Wildlife Refuge (AK), Okefenokee National Wildlife Refuge (GA), Everglades National Park (FL), Chesapeake Bay Estuary Ecosystem (MD, VA, PA, and the District of Columbia), and Cheyenne Bottoms (KS). In addition, the Stillwater National Wildlife Refuge (NV) and its associated wetland complexes are now under consideration. None of these areas was listed solely on the basis of its utilization by waterfowl, but for a variety of reasons, such as importance as habitat for endangered species, fish and shellfish, visitor use, and education. In contrast to the U.S., Canada -- which has been party to the Convention much longer than the United States-- has listed approximately 30 sites. Mexico has listed only a single site.

Although the FWS is currently in rulemaking to establish criteria against which U.S. Ramsar sites will be nominated, 54 Federal Register at 14396 (April 11,1989), to date this has been the only action taken to implement the articles of the Convention. Though in some respects the Treaty may be "self-implementing," there appears to be merit to legislating the United States' obligations under Ramsar to ensure that its provisions carry the force of law. Such provisions should include additional protective measures for U.S. RAMSAR sites. Given the international reach of the NAWCA, including provisions implementing RAMSAR seems particularly appropriate and we encourage the Subcommittee to consider expanding the NAWCA to include such measures.

2. Consider Clarifying the Definition of and Criteria for Approving Wetlands Conservation Projects.

While the North American Waterfowl Management Plan and the NAWCA both seem to place an emphasis on habitat *management* they also recognize the importance of *natural, unaltered* wetland systems, their diversity, and the variety of functions they serve. For example, the Plan states:

> Black ducks, wood ducks, goldeneye, green-winged teal and several other species appear to thrive in unaltered, natural environments along the Great Lakes-St. Lawrence lowlands, in the boreal forest, and in coastal lowlands and estuaries. These natural wetlands are being lost or degraded by agriculture, urbanization, industrial development and pollution, water control projects and certain forestry practices. The decline in black duck numbers and increased concern for the status of goldeneye and green-winged teal are related to these factors.
>
> Plan at 11 (emphasis added).

The Plan thus recognizes a fundamental challenge to prevent loss of these natural wetlands.

NWF believes the NAWCA definition of "wetland conservation project" and the criteria for approval of such projects should be modified to ensure that conservation projects *protecting* existing natural wetland systems and *restoring* destroyed and degraded wetlands to their natural condition receive priority consideration for funding. First, the definition of wetland conservation project should be amended so that projects which entail obtaining a real property interest as described in H.R. 2587 section 3 (10)(A) are eligible for consideration without including project features for "restoration, management, or enhancement" as described in section 3(10)(B). Use of the word "and" between subparagraphs A and B requires that a project include both acquisition and management components in order to meet the definition. This requirement undermines the actual goals and recommendations of the Plan and should be eliminated.

Second, we strongly encourage the Subcommittee to state a general preference in the Act for funding wetland conservation projects which protect existing wetlands and restore previously destroyed or degraded wetlands over projects which simply "enhance" or "manage" existing wetland ecosystems. The first step in achieving the no net loss of wetlands is to secure the protection of as many wetland and former wetland systems as possible. As a general matter, once the wetland base is secure, optimizing habitat quality on that wetland base can be done as time and funds allow. While other considerations -- particularly property ownership -- may make individual enhancement and management projects desirable, the general preference for protection and restoration should be stated in order to make the NAWCA a stronger tool in achieving the goal of no net loss of wetlands.

Finally, NWF is concerned about the potential for the focus on waterfowl production to encourage "wetland conservation projects" which will diminish or destroy certain wetland types and functions in order to *attempt* to maximize waterfowl production. As discussed earlier in this testimony, we feel it is essential both to the support for this legislation and to the achievement of our Nation's wetlands protection goals that the Act discourage and restrict use of funds under this Act for projects which could actually result in a net *loss* of wetlands function by altering the fundamental ecological characteristics (hydrology, biology, chemistry) of natural wetland ecosystems.[10]

One way to address this concern would be to clarify in the definition of wetland conservation project that "restoration" refers to the rehabilitation or reproduction of the naturally-occurring ecological system. Usually, restoration involves reversing the alteration which changed the wetland originally (e.g. plugging a drainage ditch or removing a levee). In addition, either the definition of or approval criteria for wetland conservation projects in the Act should require that in considering projects involving the management or enhancement of wetland ecosystems which differ from the naturally-existing wetland ecosystem due consideration shall be given to maintaining the functions and fundamental ecological characteristics of the naturally-existing wetland ecosystem. These suggested modifications would help to ensure that the NAWCA is in fact a valuable tool in achieving no net loss of wetlands. We urge their careful consideration.

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[10] One example of such a loss in wetlands function is the potential reduction in estuarine wetland productivity by restricting tidal flows in order to create fresh or brackish water waterfowl impoundments.

3. Criteria for Approving Wetland Conservation Projects Should Include the Role of the Project in Conserving Important Fish Habitat.

While the criteria against which funding projects are judged are well-conceived, the Subcommittee should also consider highlighting the role of the project in conserving important fish habitat. Since fish and shellfish are key components of wetland ecosystems, ecologically and economically, it is certainly appropriate to consider whether proposed projects to be funded by the Act will assist in conserving important fish habitats.

Habitat conservation provisions have been incorporated, and continue to be developed, for fish species managed by the federal government under authority of the Magnuson Fishery Conservation and Management Act (P.L. 94-265), and by interstate agreements (through the Atlantic States, Gulf of Mexico, and Pacific Marine Fisheries

Commissions). Protection of wetlands, and suitable water quality in wetland areas, are being increasingly recognized as vital to the success of fishery management plans (FMPs). Therefore, we believe it would be appropriate to consider the addition of a new criterion, or an expansion of criterion (5), in the project approval section which would allow for specific consideration of the extent to which the proposed project would assist in achieving the objectives of FMPs established by the federal government and by interstate agreement. Potentially, important fish stocks, such as salmonids in the Pacific Northwest, anadromous striped bass in the mid-Atlantic region, and shrimp and red drum in the Gulf of Mexico, could benefit substantially from this provision.

4. Criteria for Approving Wetland Conservation Projects Should Also Include Educational Value of the Project.

A second criterion not specifically addressed in section 5 is discussion of a project's educational value and opportunities. If there is one consensus on wetlands issues, it is that there is a need for better public understanding of wetlands. Therefore, an additional measure, that of educational opportunity, should be integrated into the evaluation process.

5. Wetland Conservation Measures for Nongame Migratory Birds Should Be Given Greater Weight in the NAWCA.

This testimony has reflected the varied benefits and uses of wetlands, and therefore the importance and value of the Plan and this legislation. An important need, however, not specifically met by the Plan, is the conservation of wetland-dependent nongame migratory birds. Therefore, we recommend provisions be added to section

12 which would amend the Fish and Wildlife Conservation Act to require FWS to develop plans, modeled after the North American Waterfowl Management Plan, in cooperation with Mexico and other western hemisphere nations that would foster the conservation of migratory nongame birds. We also recommend that the Secretary of Interior make recommendations to the appropriate Committees on legislation necessary to fully implement the recommended plans.

6. The NAWCA Should Address the Threat of Agricultural Chemicals to Waterfowl.

It makes little sense to fund the North American Waterfowl Management Plan to restore continental waterfowl populations while agricultural chemicals cause major losses of these populations to continue. Spending $25 million annually to fund waterfowl conservation projects to produce more waterfowl while ignoring losses of waterfowl to agrichemicals (often in the very areas that are being protected and managed under the Plan) puts us at cross-purposes. We recommend that H.R. 2322 and 2587 address this critical issue.

Changes in agricultural practices over the last 50 years have greatly increased the potential for wildlife that inhabit prairie pothole wetlands to be exposed to agricultural chemicals. The use of herbicides in the Prairie Pothole Region increased 356 percent between 1966 and 1982. The use of insecticides increased 170 percent.[11]

The intensification of agricultural activity on lands adjacent to wetlands has been implicated in the declines of some wildlife species within the prairie pothole region, but the relationships have not been clearly defined. Agricultural chemicals that enter prairie pothole wetlands may impact wetland wildlife directly through lethal and sublethal effects, or indirectly by altering vegetative cover or food abundance. Id. at 368. While waterfowl are clearly not the only wetland wildlife impacted by these chemicals, these birds provide an effective barometer of impacts to the aquatic system, and the decline in waterfowl populations due to agricultural chemicals has been notable. Id. at 363.

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[11] Grue, C.E. et al. 1986. Potential impacts of agricultural chemicals on waterfowl and other wildlife inhabiting prairie wetlands: an evaluation of research needs and approaches. Trans. 51st N.A. Wildl. and Nat. Res. Conf. 357-383, at 363 ("Grue et al. 1986).

The authors of the Plan explicitly recognized this threat:

> Intensive agricultural land use has resulted in major environmental problems, including soil erosion, water quality degradation, siltation and chemical contamination...These problems have been manifested in decreased productivity of the land for both agricultural crops and wildlife.
>
> Plan at 9.

One of the specific goals of the Plan is "[t]o maintain waterfowl habitats of acceptable quality and minimize exposure to contaminants." Plan at 13.

While we may not yet be able to quantify precisely the magnitude of the impacts of these chemicals on waterfowl populations, according to the scientific experts on this issue there is enough information already available to identify steps which can be taken to address the problem -- and to warrant taking those steps *now*. Clearly, the NAWCA should require careful consideration of the potential for agricultural chemical contamination of wetlands protected and restored through NAWCA funds, as well as measures to reduce such contamination.

Possible approaches to addressing this issue in the Act include the following:

-- Within one year of enactment of the NAWCA, restrict the use of agrichemicals determined by the FWS to be most toxic to waterfowl in all U.S. "priority habitat ranges" identified in the North American Waterfowl Management Plan.

-- Within one year of enactment, begin a scheduled phase-out of the use of agrichemicals determined by the FWS to be most toxic to waterfowl in all U.S. "waterfowl habitat areas of major concern" identified in the Plan.

-- Establish a program to educate, train, and certify farmers with respect to the least damaging chemicals to use, the lowest practicable chemical applications to apply, and the most protective application practices to use -- particularly in "waterfowl habitat areas of major concern" identified in the Plan.

-- Within one year of enactment, the Secretary of Interior, in consultation with the Secretary of Agriculture and the Administrator of EPA, shall complete a study evaluating the impacts of agrichemicals to waterfowl and develop recommendations to minimize or eliminate these impacts.

-- Within one year of enactment, the Secretary of Interior, in consultation with the Secretary of Agriculture and the Administrator of EPA, shall develop best management practices (BMPs) to minimize or eliminate agrichemical impacts to waterfowl. Within one year thereafter, these BMPs should be required on all "waterfowl habitat areas of major concern" identified in the Plan.

-- Consideration of agrichemical impacts to waterfowl and other fish and wildlife associated with a proposed wetland conservation project, as well as proposed measures to minimize or eliminate such impacts, in deciding whether to approve a project for funding pursuant to this Act.

7. Federal Agency Authorities and Efforts to Reduce Additional Wetland Losses Should be Strengthened in the Plan's Waterfowl Habitat Areas of Major Concern.

If enacted, the NAWCA will fund the protection and restoration of wetlands in the Plan's "waterfowl habitat areas of major concern." As noted earlier, the Plan clearly identifies the loss of wetland habitat as the primary cause of declining waterfowl populations in North America. The fact that *additional* wetland losses due to development activities were likely to continue, and that such losses would undermine the goals of the Plan, was not lost on the authors of the Plan. Indeed, the Plan itself implores State and local governments to establish laws and zoning provisions to help protect wetlands. Plan at 14.

In order to protect its investment in the Plan, the federal government also must strengthen its existing wetland protection programs, particularly in those geographical areas where projects funded under this Act will be concentrated, . Given the central role of the FWS in implementing both the Plan and this Act, it is appropriate to include in this legislation measures that strengthen the FWS's ability to prevent the unnecessary destruction of wetlands -- at least within waterfowl habitat areas of major concern. During hearings on the Clean Water Act §404 program last year, then FWS Director Frank Dunkle suggested that Congress grant the Service this type of increased role in the §404 permit process in order to strengthen federal wetlands protection efforts. [12]

To accomplish this result, we urge the Subcommittee to amend the NAWCA to require that FWS (and the National Marine Fisheries Service in coastal areas) recommendations made pursuant to the Fish and Wildlife Coordination Act (FWCA), where they affect wetlands in waterfowl habitat areas of major concern, be designed to achieve no net loss of the affected wetlands. Furthermore, the amendment would require each federal "action" agency receiving such recommendations to accept them -- with only one limited exception. Where the federal "action" agency concludes that adoption of the FWS recommendations would be inconsistent with other federal legal obligations, where efforts to resolve with FWS the inconsistency between the recommendations for wetlands protection and other federal law fail, and where the federal action agency identifies alternative measures that will prevent the net loss of the affected wetlands, the action agency can substitute its own wetland protection measures for those recommended by the FWS.

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[12] *Administration of Section 404 of the Clean Water Act (100-79) : Hearing Before the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation,* 100th Cong., 2d Sess. 180 (September14, 1988) (Testimony of Frank Dunkle, FWS Director).

It is precisely this framework that Congress included in the Electric Consumers Protection Act of 1986 (ECPA) amendment to Section 10 of the Federal Power Act (FPA) (16 U.S.C. 791(a)) to require the Federal Energy Regulatory Commission (FERC) to give strong consideration and due weight to FWS and NMFS FWCA recommendations in hydropower licensing proceedings.

While this provision has been in effect for less than three years, the experience thus far has been that it is beginning to serve its intended purpose: to force FERC to consider carefully fish and wildlife conservation measures suggested by FWS and state fish and wildlife agencies, and to incorporate alternative measures which serve the same purpose if it chooses to reject the FWCA recommendations. *The effect of this provision has not been to allow FWS to veto hydropower projects.*

Our proposed amendment does not allow FWS to veto federal projects or permits affecting wetlands. Only in those cases where a proposed federal action would unnecessarily destroy wetlands in waterfowl habitat areas of major concern (i.e., practicable alternatives to wetlands destruction do exist) and where unavoidable wetland losses could not be mitigated adequately could this provision effectively stop a federal action affecting wetlands. In waterfowl habitat areas of major concern and other areas where the private and public sectors are investing so much in wetlands protection through this Act, a strong stand on preventing avoidable wetlands losses is just good common sense.

In addition to the waterfowl habitat areas identified in the Plan, NWF suggests inclusion of other discrete habitat areas such as those designated under the Convention on the Protection of Wetlands Especially as Waterfowl Habitat (Ramsar). As noted earlier, several of these areas have already been identified and the Ramsar Convention provides a listing process which could serve as the basis for future inclusions. The addition of RAMSAR sites in this provision would help strengthen their protection, as required by the Convention Articles, and would help to broaden the wetland conservation focus of the NAWCA. Furthermore, such a provision would further one of the purposes of the Act: to meet international obligations contained in migratory bird treaties and conventions to which the U.S is a party.

NWF strongly encourages this Subcommittee to incorporate in the NAWCA this provision to strengthen federal efforts to reduce additional wetland losses: we will never succeed in restoring our migratory bird populations to historical levels unless can we stop the hemorrhaging losses of wetlands.

CONCLUSION

While it is true that the bills we discuss today fund wetlands conservation in large part through taxes imposed on sportsmen, and these bills are intended primarily to fund the conservation of waterfowl habitat through the North American Waterfowl Management Plan, we must not forget that the wetlands of this continent are public resources which provide a diversity of benefits to a diversity of "users." The full spectrum of wetland types and functions must be recognized and valued in the drafting and implementation of this very important legislation.

Whether interest in wetlands protection arises from recreation, a need for flood protection or clean and abundant water, or simply a view of our place in the universe, we all have reason to support a common goal: to maintain wetlands in the short term and to increase their quality and quantity in the long term. We believe the suggestions offered in our testimony help accomplish this and we urge this Subcommittee to give them full consideration.

We appreciate the opportunity to present testimony here today and look forward to working with you toward the enactment of this important wetlands legislation. Thank you.

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STATEMENT OF JOHN F. SMOLKO, JR.

DIRECTOR OF FEDERAL RELATIONS

DUCKS UNLIMITED, INC.

ON H.R. 2322 AND H.R. 2587

"NORTH AMERICAN WETLANDS CONSERVATION ACT"

JULY 25, 1989

Good morning, Mr. Chairman and distinguished members of the Committee. I am John F. Smolko, Jr., Director of Federal Relations for Ducks Unlimited, Inc. Thank you for this opportunity to testify today on HR 2322, sponsored by Congressman Davis of the Committee, and HR 2587, sponsored by Congressman Silvio Conte; legislation which DU considers crucial to the recovery of waterfowl and many other endangered and threatened species found throughout North America.

I know many of you are already familiar with DU and the work we do. The support many of you have provided for our programs and activities over the years is deeply appreciated and contributed significantly to our success in wetland conservation.

Since 1937, DU has spent in excess of one-half billion dollars to construct over 3600 habitat projects, reserve more than five million acres of wetlands in North America, and create some 17,000 miles of quality nesting shoreline. Under our Wetlands America program initiated in 1984, 170 critically needed wetland projects in the U.S. have been completed enhancing more than 260,000 habitat acres.

LEADER IN WETLANDS CONSERVATION

Despite our best efforts, those of federal and state agencies, and other individuals and organizations, several of whom are here today, tens of millions of wetlands have vanished over the past several decades. Critical habitat for a wide variety of plants and animals. And today, the loss of U.S. wetlands alone proceeds at the alarming rate of nearly one-half million acres a year.

Forty years ago, Aldo Leopold wrote in his famed book, A Sand County Almanac, that "conservation is a state of harmony between men and land." This harmony has been broken by man's alteration of the landscape to supply the needs of a burgeoning population and developing technological civilization. Wetlands have yielded to the plow blade, the tarmac, and the concrete.

The North American Waterfowl Management Plan, agreed to in 1986 by the U.S. Secretary of the Interior and the Canadian Minister of the Environment, is the blueprint for increasing waterfowl population numbers to the levels seen in the 1970's. Its primary objective is to provide enough habitat to sustain at least 62 million breeding birds and a fall flight of over 100 million by the end of the century.

The Plan is a continuum of the enlightened concept of managing migratory birds sewn in the early twentieth century. Similar to the great drought of the 1930's, the big dry of the 1980's has forced waterfowl managers to develop a creative strategy to generate the funds needed to preserve critical habitat essential to the future of a cherished resource.

There is one very important aspect of the Plan I would like to discuss for just a moment because I think it has gone misunderstood for much too long. The Plan, while it speaks of waterfowl, in fact benefits many species of wildlife.

Under the Plan, critical habitat areas -- wetland complexes for the most part -- are identified throughout North America which should be enhanced and preserved. When these areas are evaluated by biologist and others, we find this habitat is also essential to many other species of plants and animals. You can be sure that it is by no small mistake of nature that these areas are also crucial to birds such as the bald eagle, peregrine falcon, and the piping plover. Benefits accrue to game and non-game migratory birds alike.

So, the North American Waterfowl Management Plan is a framework for helping not only waterfowl, but many other species of endangered and threatened plants and animals. To do so, however, is going to require the concerted cooperative effort of the federal, state and private sector -- a fundamental concept of the plan itself. By cooperating and working together towards a clear objective, we can make a positive difference.

DU, as well as the Implementation Board for the North American Waterfowl Management Plan, understands the effort which is required. I am pleased to say that DU alone has pledged in excess of $300 million to the Plan over the next 15 years. This is new money --money over and above what we will budget for our traditional DU programs. Organizations such as the National Fish and Wildlife Foundation, the National Wildlife Federation, the

Nature Conservancy, the state governments and a hundred others have already or are in the process of making similar commitments.

Canada has also budgeted funds for the Plan. In fact, it is my understanding that Canadian conservation and environmental programs, including the North American Waterfowl Management Plan, are the only programs for which funding increases were requested this year in Canada.

The only player still missing -- the one that needs to be brought solidly on board -- is the federal government. In short, this is what the legislation before you today does. It provides the federal commitment now missing and the long-term, stable federal financial commitment which is essential.

At the outset, let me say the authors of these two bills are to be commended for their efforts. While their approaches may differ, the ultimate goal for which they strive is the same. Their aim is to ensure a stable source of federal funds to match non-federal funds for the enhancement and preservation of critical wetland and upland nesting habitat in Canada, Mexico and the United States. This is a common goal I think we all share and one which should serve to unite us.

Secretary Lujan took an early lead in support of the Plan, the creation of a trust fund using interest from Pittman-Robertson funds, and the basic thrust of this legislation. The Secretary's action lead to President Bush's support and his announcement of looking forward to signing a bill such as this.

I would now like to comment on what DU considers to be the three major issues in these bills. These are the source of funds made available for wetland conservation projects, the selection of wetland conservation projects vis-a-vis a commission versus an advisory committee, and the allocation formula for funds to Canada, Mexico, and the U.S.

Turning first to the funding sources. As we stated several weeks ago before the Senate Subcommittee on Environmental Protection, DU supports the use of interest generated on investment of the Pittman-Robertson funds, the penalties or fines or funds from forfeiture of property under the Migratory Bird Treaty Act, and the appropriation of such additional amounts as will be necessary for wetland conservation projects.

The P-R interest will generate an estimated $10-15 million annually. It is a creative approach and one supported by President Bush and U.S. Interior Secretary Manuel Lujan. The interest (as well as funds from other sources) must be properly accounted for and should be deposited in a separate account. A trust fund is important regardless of whether it is established through the legislation or through the Office of Management and Budget. DU supports the reversion of the P-R interest into the P-R trust fund at a date certain for apportionment to the states as directed under law.

One of the most important things is that the P-R interest not be subject to annual appropriations. To do so would be nothing but counterproductive. President Bush has stated his support, through OMB and the Department of Interior, for the permanent appropriation of these funds and I would urge the Committee to do likewise.

With respect to the penalties, fines or funds from forfeitures of property under the Migratory Bird Act, H.R. 2587 would use this money for payments made under the Refuge Revenue Sharing Act. The Act is underfunded and additional funds are needed to make these payments. Using the penalties and fines for these purposes is really a band aid approach to the problem. It is incumbent upon all of us to develop a solution which will ensure sufficient, year-to-year funding; not merely reduce the yearly shortfall.

Perhaps the most contentious provision of the two bills deals with the selection and approval of funding for various wetland conservation projects. The two bills take very different tracks.

As the bills are currently drafted, DU strongly supports the establishment of a commission which reports directly to the Interior Secretary. I must say that I am a bit puzzled by the thinking of some folks who have the notion that the goal of this provision is to foster "communication among all interested parties." Let me assure the committee, the interested parties are communicating fine right now. A statutory provision permiting us to communicate is a bit of, shall we say, overkill.

The commission's responsibilities would be to prioritize and recommend specific wetland conservation projects to the Secretary for federal funding. The projects selected would be based on the specific criteria set forth in the legislation. Also, the Migratory Bird Commission would be consulted by the Secretary-- a consultation DU views as essential -- to assure coordination with acquisition projects under consideration by the MBC.

Admittedly, some of the concerns raised by the Justice Department regarding this commission and the Secretary's authorities have merit. But, I think these concerns can be adequately addressed as has been done by the Senate in the committee amendments to S. 804.

To relegate the states and the private sector, who make up the other two legs of the funding triangle, to merely an advisory role is totally inappropriate. To do so would be akin to the proverbial child who is told he can be seen but not heard. Those cooperating and working day in and day out to implement the Plan should have an equal voice in the decision making process.

Probably the single most important aspect of the commission is the reflection in its membership of the cooperative effort which is essential to the successful implementation of the Plan. The private sector, the states and the federal government are all appropriately represented. Accordingly, the Secretary should be required to follow the commission's recommendations and make definitive findings if he chooses not to fund a specific project.

The Plan is much too important to let it become another federal program. The groups and organizations involved must remain active participants. The synergism created through the joint efforts of the public and private sector is the catalyst which can insure we are successful.

Who the commission -- or advisory committee -- reports to is also a very important issue. Should it be the Secretary or the

Migratory Bird Commission? How this is resolved leads us to who ultimately becomes responsible for the implementation of the Plan. In our opinion, this should be the Secretary.

The present Migratory Bird Commission approves the expenditure of revenues from the sale of "duck stamps." By law these funds may be spent only for the purchase of waterfowl habitat or the acquisition long-term interests in such habitat. The Commission is highly skilled in habitat acquisition and has continually done an outstanding job.

Conversely, the Plan contemplates land acquisition as only one of many activities. Equal or greater attention is focused on habitat creation and enhancement and the implementation of programs to conserve soil and water. In other words, the Plan stresses more than land acquisition, it stresses land use changes.

Thus it seems inappropriate to subordinate the broad scope and needs of the Plan to the Migratory Bird Commission. The Secretary, has a cadre of talented professional personnel available within the Interior Department and is a signatory to the Plan. In our view, he is the one who should be responsible for federal actions and decisions relative to implementing the Plan.

The final major issue I would like to comment on relates to the allocation of funds between Canada and Mexico and the U.S. First, though, we need to take a look at where the greatest habitat losses and threats to habitat are located.

Large-scale alterations of the wetland and grassland habitat have been most severe in the prairie pothole region. This region, located predominately in Canada, is critical breeding habitat for migratory birds and other wildlife. This habitat must be preserved if we are to insure the recovery of waterfowl. This is the basis on which DU was founded a half century ago and why over 80 percent of DU's conservation dollar is invested there.

Recognizing that the majority of the work needs to be done in Canada, the bills set specific thresholds on the amount of funds to be spent in Canada, Mexico and the U.S. DU supports this requirement.

The bulk of the habitat work to be done is in Canada. As such, and because of the extensive planning necessary for wetlands projects, it is imperative that a relatively stable level of funding be provided. This is the only way we will be able to set up a solid long-term conservation program to provide the highest amount and best quality of habitat possible with the fund available.

I think it is important that we don't confuse the concept of prioritizing projects with the biological decision made as to where the habitat is located that we need to preserve. Whatever we can do to make sure money goes to where it is needed benefits us all in the long run.

In summary, Mr. Chairman, waterfowl are facing a crisis and they need our help. The commitment of the President, Secretary Lujan, Senator Mitchell and his colleagues in the Senate, Representatives Conte and Davis and the members of this subcommittee to the preservation of wetlands is recognized and appreciated by we in the conservation community.

This legislation is important. It is straight forward and addresses one issue. It deserves your expeditious consideration.

I hope these comments have been helpful, that I have provided you with a better understanding of the goals and objectives of the North American Waterfowl Management Plan, and of the importance of this legislation to achieving those goals. I will be pleased to answer any questions.

The Nature Conservancy

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STATEMENT OF THOMAS MASSENGALE
VICE PRESIDENT FOR MAJOR PROGRAM DEVELOPMENT
THE NATURE CONSERVANCY
BEFORE THE HOUSE MERCHANT MARINE AND FISHERIES
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT

July 21, 1989

Mr. Chairman, members of the Committee, my name is Thomas Massengale, and I am Vice President for Major Program Development of The Nature Conservancy. I would like to thank the Committee for holding these hearings and for allowing me the opportunity to present The Nature Conservancy's views regarding H.R. 2322 and H.R. 2587, legislation to protect wetland ecosystems. The Nature Conservancy strongly supports these bills, and we commend Congressman Conte and Congressman Davis for their foresight and commitment in introducing these extremely important pieces of conservation legislation. I would also like to thank Chairman Studds for conducting hearings on this bill and the extremely important issue of wetlands protection.

The Nature Conservancy is a national, non-profit conservation organization with over 500,000 members. Our principal and sole objective is to identify the best and most important examples of America's ecosystem types and rare species habitats - this country's biological diversity - and to provide protection for the most threatened of those areas and species. We are the largest private organization engaged in species conservation in the United States today. The Nature Conservancy has been responsible for the preservation of more than 3,000,000 acres of ecologically significant natural lands since 1954.

Our interest in the legislation before you today arises from the fact that wetlands preservation is integral to the preservation of biological diversity and endangered species. Wetlands serve many important functions ranging from water quality maintenance to flood control to recreation, but they also provide critical habitat for a tremendous myriad of plant and animal species. Studies have indicated that 35% of all rare, threatened and endangered species are dependent upon wetland ecosystems entirely or at some time during their life cycle.

The Fish and Wildlife Service has estimated that more than half of the wetlands present in the lower 48 states when this country was first settled were gone by the 1970's and that an estimated 350,000-500,000 acres a year continue to disappear. Clearly we cannot allow this trend to continue. This loss has a tremendous negative impact on the environment. To quote from a recent report of the National Wetlands Policy Forum:

> "...wetlands have great value in their natural state. Their biological productivity can exceed that of the best agricultural lands. A broad array of wildlife, fisheries and other aquatic resources depend on them. Wetlands sustain nearly one third of the nation's endangered and threatened species. They provide breeding and wintering grounds for millions of waterfowl and shore birds every year. Coastal wetlands provide nursery and spawning grounds for 60 to 90 percent of U.S. commercial fish catches. Wetlands also play key roles in regional hydrological cycles -- lessening flood damage, reducing erosion, recharging groundwater, filtering sediment, and abating pollution."

Just one of countless examples of the importance of wetlands to wildlife and endangered species is the Chenier Plain, a priority site identified by the North American Waterfowl Management Plan. The Chenier Plain, located along the gulf coast of Texas and Louisiana, is a 15,000 square mile mosaic of open water habitats, marshes, cheniers, beaches and uplands. The Chenier Plain is one of the most important areas for wintering waterfowl as several million ducks and geese, including northern pintails, mallards, fulvous tree ducks, mottled ducks and white-fronted and Canada geese annually winter in the region. The Cheniers, or forested islands dispersed throughout the wetland, are critical habitat for Neotropical migrant songbirds. Tens of millions of songbirds annually fly the 700 miles across the Gulf of Mexico during spring and fall migration, converging on the Cheniers as they look to rest on the first available land. As in the example of the Chenier Plain, all wetlands, large and small, contain their own tremendous and unique biological value.

In 1986, the United States and Canada signed the North American Waterfowl Management Plan. The Plan provides a framework for maintaining an adequate wetlands habitat base for migrating waterfowl and for wetlands preservation in general. In the past, specific sites identified as significant by joint ventures of the North American Waterfowl Management Plan have received acquisition funds. However, the Plan has never been funded in its entirety. We strongly support H.R. 2322 and H.R. 2587 in that they authorize, fund and implement this important wetlands conservation plan.

The Nature Conservancy works both privately and cooperatively with federal, state and local government to achieve protection of critical endangered species habitat, including wetlands. We accomplish this protection through habitat acquisition and management. However, the scope of this mission is far too large for any single entity. It is crucial that the public sector join with the private sector in a shared mission of protecting these critical wetland ecosystems. H.R. 2322 and H.R. 2587 support and encourage this public/private cooperation by matching private and state dollars with federal appropriations for acquisition and protection of critical wetlands.

TNC is one of the private non-profit groups that is actively involved in implementing the goals of the North American Waterfowl Management Plan.

I would like to provide you with one example of the many cooperative projects which would greatly benefit from enactment of this legislation, the ACE River Basin project in South Carolina. The ACE River Basin is a priority site identified by the North American Waterfowl Management Plan, and is a series of islands and pristine marsh habitat where the Ashepoo, Combahee and Edisto Rivers converge. The marsh supports one of South Carolina's most productive estuaries and the beautiful St. Helena Sound. It is one of the most productive shellfish and fishing areas in the Southeast, and is habitat for a tremendous variety of wildlife, including several endangered species such as the bald eagle, wood stork, Atlantic sturgeon and loggerhead sea turtle.

The Nature Conservancy, Ducks Unlimited, the State of South Carolina, the US Fish and Wildlife Service, private landowners in the area and others are working on a cooperative venture to preserve and protect the Basin. The project aims to afford protection to about 100,000 acres. The Nature Conservancy and Ducks Unlimited have received gifts of approximately 5,000 acres, and The Conservancy has received easements on 6,000 acres. The Conservancy, Ducks Unlimited and the state are also working with federal agencies to establish a National Wildlife Refuge and a National Estuarine Research Reserve in the ACE River Basin. The legislation before you today supports these cooperative initiatives, which quite simply are essential to an effective and comprehensive national wetlands preservation program.

The Nature Conservancy is also working cooperatively with other public and private conservation organizations on such North American Waterfowl Management Plan priority sites as Crystal Springs in South Dakota, Roanoke River in North Carolina, Cache River in Arkansas and Cobs Cook Bay in Maine. The Nature Conservancy and many other conservation organizations, both public and private, are eager and ready to accelerate and expand these preservation projects across the country. That is the goal embodied in these bills.

TNC endorses the basic concepts of both H.R. 2587 and H.R. 2322. One area in which the bills differ is their methods of determining which wetlands projects to fund. H.R. 2587 would establish the North American Wetlands Conservation Advisory Committee that will recommend wetlands conservation projects to the existing Migratory Bird Commission. We believe this approach makes the most sense.

We all face two enemies in our efforts to save wetlands -- time and money. We applaud both H.R. 2587 and H.R. 2322 because, among other things, they would authorize federal funds for this effort. Let us not forget the pressures of time as well. TNC urges swift enactment of this legislation.

That concludes my statement. Thank you.

Wildlife Management Institute
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LAURENCE R. JAHN
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LONNIE L. WILLIAMSON
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RICHARD E. McCABE
Secretary
DANIEL A. POOLE
Board Chairman

July 26, 1989

JUL 27 1989
WASHINGTO

The Honorable Gerry E. Studds, Chairman
Subcommittee on Fish and Wildlife Conservation
and the Environment
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Wildlife Management Institute is pleased to submit to the official hearing record of July 25, 1989 the following comments on the two bills (H.R. 2322 and H.R. 2587) entitled the North American Wetlands Conservation Act.

Waterfowl and other wetland wildlife are at a crucial crossroads. If this wetland heritage is to survive and flourish it needs help.

The North American Wetlands Conservation Act was designed to address this wetlands crisis. Recognizing that most of North America's remaining wetland habitat and wetland restoration potential exists on privately owned lands, H.R. 2322 and H.R. 2587 focus on a variety of wetland protection measures including restoration, enhancement and acquisition.

A hallmark approach of H.R. 2322 and H.R. 2587 is the sustained support provided for the North American Waterfowl Management Plan (Plan). The Plan is a blueprint for maintaining and restoring waterfowl and other fish and wildlife populations dependent upon wetlands. The Plan also could be a historic success story for establishing wetland conservation partnerships. Canadian and U.S. federal governments, provinces, states and private organizations have pledged support. What has been missing has been strong financial commitment by the U.S. Congress. H.R. 2322 and H.R. 2587 provide some of that missing support.

The Institute offers four recommendations to strengthen the North American Wetlands Conservation Act and to broaden its support by wetland advocates.

First, it is absolutely essential that a certain date be provided in the legislation that would redirect interest monies earned on unobligated funds from the Federal Aid in Wildlife Restoration Program (PR) into normal state PR apportionments. The Institute recommends that this date be 2006, or 15 years after enactment of the Act. This is consistent with new amendments to the Senate version (S. 804). We also urge the committee to make very clear in the bill and legislative history that the diversion of PR interest monies is to expedite wetland acquisition this is in accord with State interests in the North American Waterfowl Management Plan.

Second, funding partners contributing to wetland conservation efforts should have a strong statutory role for determining project priorities. The Institute supports provisions found in H.R. 2322 and S. 804 that establish a North American Wetlands Commission to make recommendations to the Secretary of the Interior. The Secretary would then be required to consult with the Migratory Bird Conservation Commission before making final approval decisions.

Third, H.R. 2322 and H.R. 2587 should recognize the need for an assured source of funds of sufficient volume to resolve the shortfall of funds owed to local governments under the Refuge Revenue Sharing Act. Provisions in H.R. 2587 that direct migratory bird fines and penalties into the refuge revenue sharing fund are grossly inadequate to meet obligations. A better approach would be to incorporate provisions of H.R. 2746 that use undesignated Department of the Interior receipts to fully fund the Refuge Revenue Sharing Act.

Fourth, language in Section 6(a)(3) should be clarified to allow the Secretary to make grants of federal funds, in addition to conveyances of property, to a state or private entity approved by a State. Changes similar to those that any grant or conveyance unquestionably conforms with the wetland conservation purposes of this bill.

The Institute believes that the North American Wetlands Conservation Act provides an innovative approach to fund needed wetland conservation activities through federal, state and private cooperation. We appreciate the opportunity to support and offer our views on this important legislation.

Sincerely,

Lonnie L. Williamson

Lonnie L. Williamson
Vice-President

LLW:bsg

JUL 28 1989

MANOMET BIRD OBSERVATORY
MANOMET, MASSACHUSETTS 02345 (508) 224-6521

RECEIVED
JUL 27 1989
WASHINGTON

The Hon. Gerry E. Studds
Subcommittee on Fisheries and Wildlife
543 House Annex II
3rd and D St., SW
Washington, D.C. 20515

24 July 1989

Dear Congressman Studds:

We have recently finished studying S. 804, the North American Wetlands Conservation Act. We wish to express our support of the bill, and offer a suggestion for its improvement.

As an organization which has been extensively involved in migratory bird and habitat research and education programs throughout the US, and in 35 nations and commonwealths south of the United States, MBO believes this bill proposes an important step needed for the protection of wetland ecosystems. Wetlands are an especially important global resource because of their extraordinarily high primary productivity. Energy produced by wetlands provides essential and significant habitat for wildlife and all the human aesthetic, economic, and recreational values centered thereon. Thus we feel that S. 804 is a timely and important conservation measure which deserves strong support.

We would, however, like to offer suggestions which we feel would strengthen the act if incorporated. As it currently reads, the Act makes no provision for paying for the collection of information which would lead to identification of critical wetlands. This is not a severe problem in North America, but it is a severe problem in countries south of the United States. Although a start has been made by the IUCN and a consortium of private conservation agencies by simply listing and providing rough characterizations of Wetlands in South America, there is scant information on which wetlands are of greatest importance to migratory birds once they pass south of the United States. Survey work completed by the Canadian Wildlife Service and the International Shorebird Survey clearly suggest that there are key wetlands throughout Central and South America which are of strategic importance to North American migratory birds. However, much more information is needed before priorities for protection can be set as most areas have yet to be even identified.

It is our conviction and experience that there is great potential for building partnerships of governmental and non-governmental organizations in other American countries to identify and protect strategic wetlands south of the United States. I believe the wetlands conservation act should include working with appropriate governments to help to pay for identification of wetlands south of the United States that are critical to the well being of North American wildlife, and to seek ways for initiating agreements for the protection of strategic sites modelled after the North American Waterfowl Plan.

We therefore suggest that wording be added to the effect that X% of the ... funds be made available annually to assist countries south of the U.S. to gather and analyze data concerning wetlands of importance to migratory birds and to help protect wetlands of strategic importance to North American avifauna. Such data should be collected and analyzed via a central clearing house selected by the Commission, and the results made available to all countries, for use in establishing purchase and other priorities which are in the meaning of this Act.

We hope you will seriously consider the the utility of such an addition to the bill, and would be glad to answer any questions you might have.

Sincerely yours,

Brian A. Harrington

Brian A. Harrington
Senior Scientist

Testimony of

Charles H. Collins
Executive Director

National Fish and Wildlife Foundation

Regarding House Bills 2587 and 2322

(North American Wetlands Conservation Act)
Before the Subcommittee on Fisheries and Wildlife
Conservation and the Environment
of the
House Merchant Marines and Fisheries Committee

July 25, 1989

On behalf of our Board of Directors, the National Fish and Wildlife Foundation thanks and commends the leadership of Congressman Studds, Davis, Dingell, Conte, Thomas, and Weldon for their support and initiative in the sponsoring of the North American Wetlands Conservation Act. The Foundation wholeheartedly supports the spirit of both H.R. 2587 and H.R. 2322 as we supported the passage of the Senator Mitchell's S. 804.

The National Fish and Wildlife Foundation was created by an Act of Congress in 1984 to establish a link between the Federal government and the private sector, and particularly to foster private funding contributions to wildlife conservation programs of national and international significance. The Foundation has since identified the loss of national wetlands, and subsequent declines in many wildlife and waterfowl species, as a top priority issue, where funding and other support needs have not been met by existing public or private conservation entities, and in which the Foundation was uniquely suited to assist.

In 1987, the Foundation established the North American Waterfowl Management Plan as one of three major initiatives. Responding to requests by the USFWS, State wildlife agencies, and private organizations, the Foundation has borne many of the legal and political responsibilities of getting the Plan started, and we have served as the primary delivery vehicle for the first U.S. funds that were sent to Canada. The Foundation has brought in major private conservation groups as funding partners with state and federal wildlife and land management agencies.

Based on this experience in wetlands and waterfowl conservation, the Foundation supports passage of the North American Wetlands Conservation Act as contemplated in H.R. 2587 or H.R. 2322.

The Foundation is convinced that substantial federal funding is needed to aid in the international, national, and regional efforts to conserve, restore, and protect critical wetlands. Many species of wildlife, fish and plants, including non-game and endangered species in addition to waterfowl, would benefit by having a stabilized habitat base in which to flourish. People would likewise benefit by being the ultimate recipients of the many values provided by healthy wetlands.

The Act would instill a national vision for wetlands conservation, and would back it up with enabling provisions for the North American Waterfowl Management Plan. There should be sustained federal funding provided in an Act to make the federal government a full partner with the states, private organizations, and individuals in the implementation of the Plan.

The Act would institutionalize the philosophy of wetland conservation, and would provide a select body of state, private, and federal experts to prioritize and recommend wetland acquisition and restoration projects both in the U.S. and Canada.

It is important to develop a structure that provides for meaningful and substantive participation by the private organizations and states in the decision-making process, as they have already become full financial partners in the wetlands conservation efforts supported under the Act. A formal organization would bring more integrity and continuity to the wetland decision-making process. A formally-constituted structure should remove ambiguity from the current adhoc structure of the NAWMP organization, and focus efforts on getting the job done rather than worrying over bureaucratic procedures. Whether this results in the establishment of a new commission or a modification of the authorities of the Migratory Bird Conservation Commission is of lesser import than the decision to formalize state and private participation in the NAWMP. On balance, greater synergism between existing wetland conservation institutions and the new private and state partnerships may be achieved through H.R. 2587.

The criteria proposed under the Act for selecting eligible wetland sites for federal matching funds are reasonable and biologically defensible. They would lead to better project implementation and to more projects undertaken, as partnerships are implemented across the full geographic spectrum identified in the Plan.

The funding allocation formulas for the U.S. and Canada projects are sensible and acceptable to the Foundation, and, to our knowledge, to the 17 other private organization on the NAWMP National Implementation Board. The provision to send a percentage of funds to Canada addresses a long-term oversight in North American wetlands conservation efforts. It is critical to the successful implementation of the Plan's goals. The total amount of funding proposed will make a significant contribution to meeting the goals of the Plan and will spur continued financial support from the states and private sector.

The sources of federal funding, particularly the use of interest from the Pittman-Robertson Fund, identified in both H.R. 2587 and 2322 are likewise appropriate. The authority to receive up to $15 million per year in General Revenue, beyond the Pittman-Robertson and fine-forfeiture monies, offers important and necessary flexibility for meeting critical funding needs. These funds would provide the additional leverage required to attract private and state financing several times over the federal investment.

The provision in H.R. 2587 that provides fines and forfeiture monies to the Refuge Revenue Sharing account is desirable to achieve success in acquiring and protecting critical wetland areas in the U.S. But, the Foundation strongly recommends that this bill be amended, or that other legislation be proposed, that would provide full funding on a sustained basis (that is, not subject to the fluctuation of annual appropriation) to the Refuge Revenue Sharing Act. A growing number of counties in the western and mid-western states are embargoing wetland acquisition because the federal government is not paying its bill to their counties. The state governments have made good on their legal commitments to make payments in lieu of taxes, and the counties expect the same performance from the federal government.

The reports to Congress make good sense for tracking progress in wetlands conservation and keeping the ultimate decisionmakers--Congress--appraised of what is happening.

The 5-year revision requirements would ensure the necessary updating of the Plan to keep pace with current conditions and trends.

Overall, the National Fish and Wildlife Foundation is supportive of H.R. 2587 and 2322, and we commend Representatives Conte, Dingell, Jones, and Davis for their leadership on this issue.

Background

"Wetlands" is the collective term for marshes, swamps, bogs, and similar areas that often develop between open water and dry land. The federal regulations implementing Section 404 of the Clean Water Act define wetlands as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." Wetlands represent the most biologically productive and genetically rich habitat in nature.

In the past, wetlands were often regarded as wastelands, and more than half of our original U.S. wetlands have subsequently been destroyed. Canada has likewise seen a loss of about 40% of her historical wetlands. The major causes of wetland loss and degradation have been drainage, dredging, excavation, filling, toxic dumping, tilling for crop production, channelization, mining, diking, damming, and overgrazing by livestock.

In the 1600s, 215 million acres of wetlands reportedly existed in the lower 48 states, but by the 1970s, only 99 million acres remained, a 56% loss. Between the mid-1950s and mid-1970s, about 11 million acres of marshes and swamps were destroyed, for to an alarming annual loss averaging 458,000 acres. Agricultural drainage accounted for 87% of the loss, whereas urban encroachment and other development led to the remaining 13% loss. The most extensive and recent wetland losses have occurred in Louisiana, Mississippi, Arkansas, North Dakota, South Dakota, Nebraska, Florida, and Texas.

More recently, we have discovered that wetlands are not wastelands, but are valuable natural resources providing wide benefits to man. Our attitudes changed from negative to positive when we found that wetlands help restore water quality, control shoreline erosion, safely capture and absorb flood waters, provide fish and wildlife habitat and other natural products, support hunting, fishing, and trapping activities, and provide opportunities for other types of recreation and aesthetic appreciation.

Wildlife

Wetland habitat is critical to many species of wildlife, including even large carnivores such as the Florida panther, and big game like deer and moose in addition to the numerous species of smaller animals, birds, and fish. About a third of the continent's endangered wildlife species require wetland habitat to survive. Of the 30 species of migratory nongame birds currently of national management concern, nearly one-half depend on coastal and freshwater wetlands.

In the prairie pothole region of the U.S. and Canada, where wetlands support about 220 species of migratory birds, the U.S. Fish and Wildlife Service has calculated from the Breeding Bird

Survey data trends for 28 species of nongame birds. These data show statistically significant declines in breeding populations over the 20-year period 1967-1987 in the following 14 species: American bittern, northern harrier, Sora rail, willet, black tern, horned lark, clay-colored sparrow, savannah sparrow, Baird's sparrow, grasshopper sparrow, LeConte's sparrow, bobolink, red-winged blackbird, and western meadowlark.

Waterfowl and shorebirds are perhaps the most obvious examples of wetland dependents. Both groups are the subject of serious international efforts--the Western Hemisphere Shorebird Reserve Network and the North American Waterfowl Management Plan--to restore their species and production by protecting, restoring, and conserving wetland habitat.

Waterfowl

Waterfowl are the most prominent and economically important group of migratory birds in North America, generating a direct expenditure of several billions of dollars annually, mostly from hunting activities.

The wetlands of North America provide habitat for 37 species of waterfowl, and the widespread losses of wetlands have been clearly reflected in the declining breeding populations and annual migrations of several species of ducks, geese, and swans. The decline in duck populations across the continent is perhaps the most visible symptom of the wetland problem.

While wetlands conservation should not be based solely on waterfowl needs or hunting interest, the recognition of waterfowl as a barometer of wetland health, as it were, is a sensible practice. Waterfowl managers currently have the most extensive data base for practical wetland management. This data advantage should be taken in concert with information on other wildlife species to optimize wetlands conservation.

North American Waterfowl Management Plan

Signed by the U.S. Secretary of the Interior and the Canada Minister of the Environment in May, 1986, the North American Waterfowl Management Plan is a cooperative strategy that provides the framework for improving waterfowl populations through wetland habitat conservation. The Plan directly addresses the most obvious symptom--the decline of waterfowl populations--of the wetlands crisis, while encouraging the broad partnerships needed to address the other non-waterfowl values as well.

Broadly stated, the goal of the Plan is to restore the North American breeding duck population to 62 million birds by the year 2000. The plan outlines an ambitious program of habitat acquisition, restoration, and development to achieve the population goals. Goals are also given for geese and swans. Because the Plan quickly focuses on wetland habitat, it is functionally a continental wetland management plan as much as it is a waterfowl plan.

Building Partnerships

The Plan recognizes that interest in waterfowl conservation is not limited to duck hunters; the wetlands crisis is everyone's problem. The attainment of waterfowl population and habitat goals will require financial resources far beyond the capabilities of federal and state fish and wildlife agencies.
It has provided a logical forum to build the partnerships needed throughout the private sector and state and federal governments to accomplish meaningful wetlands and wildlife conservation.

At the national level, a new partnership called the U.S. Implementation Board has been formed by 17 of the most substantial private conservation, agricultural, and timber organizations in the U.S.: American Farmland Trust; American Forest Foundation; The National Audubon Society; Berry B. Brooks Foundation; Ducks Unlimited, Inc.; International Association of Fish and Wildlife Agencies; Izaak Walton League; Land Trust Exchange; National Association of Conservation Districts; National Fish and Wildlife Foundation; National Rifle Association; National Wildlife Federation; The Nature Conservancy; North American Wildlife Foundation; Wildlife Legislative Fund of America; Wildlife Management Institute; and The Wildlife Society.

The Implementation Board is committed to full implementation of the Plan to restore and conserve critical wetlands, and the member organizations have already involved their regional and state staff in the private-state-federal partnerships that designed the six U.S. joint ventures that put the Plan on the ground. Joint venture projects have also brought in local agricultural landowners, farm and ranch organizations, sportsman clubs, and individuals as enthusiastic partners.

The joint ventures consist of important projects that have attracted substantial financing from private and state sources by using federal dollars as the initial leverage. In the Canada First Step Joint Venture Projects (FY1988), $6 million was donated by non-federal entities, which accounted for 75% of the total dollars raised; only $2 million of U.S. federal funds were used. So far in the Canada Second Step Projects (FY1989), the non-federal funding amounts to $9 million, or 82% of the projects costs; the U.S. federal contribution is $2 million. The private and state partners are consistently matching every U.S. federal dollar four to five times over to get the Plan on the ground.

The estimated cost of full implementation of the Plan by the Year 2000 is $1.5 billion, including the Canadian contributions. The calculated U.S. portion of the financing is about 75%, or $1.125 billion. If the private contributions continue at the rate of $4 private-state for every $1 U.S. federal, the federal pro rata share over 15 years would be $225 million, or $15 million per year.

The most critical need over the next 15 years is the federal funding investment needed to attract private and state contributions.

Role of National Fish and Wildlife Foundation:

In 1987, the National Fish and Wildlife Foundation established the North American Waterfowl Management Plan as one of three major initiatives on which it would focus its internal staff and resources. The Foundation is committed to doing everything within its power and resource capability to achieve full implementation of the Plan, and has brought in major private conservation groups as funding partners with state and federal wildlife and land management agencies.

A full-time coordinator was hired in February, 1989, to continue to coordinate all of Foundation activities in the Plan. But, there is a real need to institutionalize Plan implementation so that the Plan no longer commands 80% of the Foundation's time, resources, and efforts. The Foundation also has other major initiatives comprised of more than 100 projects that demand enormous time and attention, and staff and resources are already stretched to the maximum.

The Foundation's unique ability to foster cooperative efforts through its matching fund program has enabled it to secure $4 million from private donors and 11 states (California, Oregon, Colorado, Texas, Oklahoma, Arkansas, Louisiana, Illinois, New Jersey, South Carolina, and New York) in 1988 as a challenge match to $2 million in federal investment. These funds were subsequently used to fund the following First Step Joint Venture Projects in Canada:

o Quill Lakes, Saskatchewan	$2,200,000
o Buffalo Lakes Moraine, Alberta	$1,000,000
o Nicolette-Baie du Fevre, Quebec	$ 406,000
o Matchadash Bay, Ontario	$ 218,000
o Grand Lake Meadows, New Brunswick	$ 94,000
o Grove Pine-Big Pond Brook	$ 82,000

In 1989, the Foundation became the conduit for state funds to be transferred to Canada, and assisted in gaining the following states pledges, totaling $3 million, to the Second Step Joint Venture Projects in Canada:

Arkansas	$100,000
California	$500,000
Illinois	$100,000
Kentucky	$ 60,000
Louisiana	$100,000
Minnesota	$150,000
Mississippi	$ 25,000
Missouri	$100,000
New Jersey	$ 50,000

New York	$100,000
North Carolina	$ 60,000
Oklahoma	$ 8,000
Oregon	$ 25,000
Pennsylvania	$100,000
Rhode Island	$ 25,000
South Carolina	$400,000
Tennessee	$747,000
Texas	$100,000
Utah	$ 50,000
Washington	$100,000
Wisconsin	$100,000

The Foundation is in the process of allocating $2 million in unrestricted federal matching funds to acquire and protect priority sites in the U.S. regional joint venture to implement the Plan. Using $1.668 million in federal dollars as leverage, the Foundation has attracted $4.856 million in private donations and has funded in the past 20 months the following U.S. wetland projects:

Project	Federal Grant	Match	
Iowa Wetlands Program, IA	$ 80,000	$300,000	(2)
Bayou Bodcau, LA	$100,000	$200,000	(2)
Agricultural Outreach Project, CA	$200,000	$193,000	(1)
Wetlands Incentives Project, CA	$100,000	$100,000	(1)
Sturgeon Lake Restoration, OR	$ 75,000	$220,000	(2)
A.C.E. Basin Project, SC	$150,000	$950,000	(1)
Roanoke River Project, NC	$100,000	$100,000	(1)
Cobscook Bay Project, ME	$125,000	$125,000	(1)
Briggs Marsh Project, RI	$ 40,000	$700,000	(2)
Comertown Prairie Preserve, MT	$100,000	$100,000	(1)
Cape May Refuge (Schmidt Tract), NJ	$100,000	$400,000	(1)
Crystal Springs Preserve, SD	$100,000	$100,000	(1)
Lake Thompson Watershed, SD	$ 25,000	$100,000	(1)
White River-Cache River, AR	$150,000	$270,000	(2)
Cache River, IL	$100,000	$100,000	(1)
Keystone WMA Moist Soil Unit, OK	$ 23,000	$ 23,000	(2)
Behring Ranch Preserve, CA	$100,000	$1,000,000	(2)
Total	$1,668,000	$4,981,000	

(1) Direct to Foundation, $2,268,000
(2) Outside match, $2,713,000

NATIVE AMERICAN FISH & WILDLIFE SOCIETY
750 Burbank Street • Broomfield, Colorado 80020
Phone: (303) 466-1725 • FAX: (303) 466-5414

August 15, 1989

Ms. Gina De Ferrari
Merchant Marine and Fisheries Committee
U.S. House of Representatives
543 House Annex 2
Washington, D.C. 20515-6232

Dear Ms. De Ferrari:

Enclosed is the testimony the Native American Fish & Wildlife Society wishes to provide to the House Merchant Marine and Fisheries Committee in regards to the North American Wetlands Conservation Act (H.R. 2587).

We respectfully request that this testimony be entered into the record for the hearings held July 25, 1989.

If you have any questions [illegible] to discuss the Society's testimony, please feel free to call me or Mark Hecker, Technical Services Director, at 303/466-1725.

Sincerely,

Dewey Schwalenberg

Dewey Schwalenberg
Executive Director

enc.
DS/pkm

NATIVE AMERICAN FISH & WILDLIFE SOCIETY
750 Burbank Street • Broomfield, Colorado 80020
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WRITTEN TESTIMONY
provided to the
MERCHANT MARINE & FISHERIES COMMITTEE

NORTH AMERICAN WETLANDS CONSERVATION ACT
(H.R. 2587)

Honorable Chairman and Members of the House Merchant Marine & Fisheries Committee:

Thank you for allowing us the opportunity to provide written testimony to the Merchant Marine & Fisheries Committee in support of the North American Wetlands Conservation Act (H.R. 2587) of 1989. We respectfully request that this testimony be entered into the record of the hearing that was held July 2[illegible], 1989.

The Native American Fish & Wildlife Society was established to support the development of Indian Tribal Government Fish and Wildlife Management capabilities within a professional framework. Such development requires sensitivity to the social, cultural, religious, political, economic, sovereignty, and historical perspectives of the Tribes. The Society has evolved over the past seven years into an organization of 350 professional biologists, managers and technicians that represent all aspects of tribal fish and wildlife management and conservation [illegible]. The Society also has obtained formal memberships from [illegible] Tribal Governments and seven Tribal Organizational memberships including the Great Lakes Indian Fish & Wildlife Commission, Northwest Indian Fisheries Commission, Columbia River Inter-Tribal Fish Commission, and the Chippewa-Ottawa Treaty Fishery Management Authority. The individual members are representative of seven Society regions [illegible] Alaska, Canada and various other countries [illegible] membership, the significance of wetlands and waterfowl management [illegible] lost to the Society nor its members. What has been lost, it appears, is the significance of Tribal Governments, their management programs, and their land and wildlife resource base to the originators of the North American Waterfowl Management Plan and the authors of the North American Wetlands Conservation Act (H.R. 2587 and S. 804).

Tribes across the country control over 90 million acres of land, much of it prime wetland habitat. Historically, the reservations were situated among the lakes and low lying areas that were considered unusable by early settlers, miners, and logging companies. This early strategy for removing Indians from productive land bases has now become a major factor in management availability and preservation of the endangered waterfowl resources of our country. Tribes also control resources outside of reservations due to federal court decisions that mandate a co-management status between Tribes and states in the Northwest and Great Lakes areas. Acreage associated with these co-management areas offers considerable waterfowl production and enhancement opportunity as well.

Tribal Governments, unfortunately, tend to be treated as local bio-political entities that somehow are linked with state interests and management authorities. Tribal Governments, we can assure you, do not perceive themselves in such a situation and are willing to participate as co-management equals to the states. Pertinent to this position in wildlife management is the government-to-government relationship and recognition that Tribes must attain before Tribal management and resources can be invested in national initiatives. The North American Wetlands Conservation Act is a prime example of the lack of understanding that exists at the national level of the role at which Tribes should be included in the developing management initiatives Our analysis of the language of Bill H.R. 2587/S. 804 shows that Tribes are intended to be included in an "ex-officio" advisory capacity to the North American Wetlands Conservation Advisory Committee. Notwithstanding the legal/political status of Tribes, given the tremendous potential that U.S. Tribal lands and Canadian Native reserves have for wetland and waterfowl preservation and production, respectively, it would seem inappropriate to include such interests in an advisory capacity. Surely an appointment to the committee is appropriate.

Many other issues included in the language of the Bill raise questions that seem to indicate a general lack of understanding of Tribal organization, structure and the relationship that Tribal involvement should take. We have included a complete analysis of the bill, suggested language revisions, and a narrative justification for your convenience in rethinking the legislation. The recommended changes would be well received by Tribal entities and would serve as an incentive to solicit Tribal involvement in Wetland Conservation and waterfowl management.

As a practical example of the current involvement of Tribal Governments in waterfowl management, I would like to highlight a project for the committee that is currently active in the Great Lakes Region. This Plan in no way represents the full scope of waterfowl management activity by the Tribes, but serves to explain the Tribes' commitment to professional management and cooperative involvement with national initiatives.

The plan is entitled "BIZHIBAYAASH" or "Circle of Flight." It involves 13 Indian reservations in Minnesota and Wisconsin consisting of a land base of 3.5 million acres and 22 specific wetland/waterfowl projects that total over 1.1 million dollars. Nationally known waterfowl management areas such as the Ki-W-Say Wildlife Area, Zah-Geeng Wildlife Area, Chippewa Flowage, Powell Marsh, and Kakagon Sloughs, are only a few of the areas that Tribes protect and manage. Tribes, under this plan, will attempt to rehabilitate additional wetland areas to increase breeding, nesting, brooding and migratory habitats to provide even more areas for wetland enhancement.

Through limited surveys, (resulting because of inadequate funding to Tribal management programs), waterfowl population information has been gathered which indicates that of 12 species of ducks and geese using these Tribal areas, breeding populations of over 33,170 birds and peak migration populations in excess of 1.195 million birds currently exist. Although such conservative information is completely inadequate to support Tribal management decision-making, it nonetheless shows the significance of the management effort being made by the Tribes to preserve and produce a waterfowl resource. More specific information on the "Circle of Flight" plan has been submitted as an attachment to this testimony.

Tribes across the country have begun the process of involvement in the North American Waterfowl Management Plan and in cooperation with the U.S. Fish & Wildlife Service, have developed regulations of Tribal members for harvest of waterfowl. Tribes such as the Mille Lacs Band of Chippewa Indians in Minnesota, the Yankton Sioux Tribe, South Dakota; Navajo Nation, New Mexico; the Penobscot Nation, Maine; Jicarilla Apache, New Mexico; Crow Creek Sioux Tribe, South Dakota; White Mountain Apache, Arizona; Shoshone-Bannock, Idaho; Colorado River Indian Tribe, Arizona; Confederated Salish & Kootenai, Montana; and the Great Lakes Indian Fish & Wildlife Commission, Wisconsin, all are participating in this regulatory process.

The status of Tribes' involvement in grass roots management of waterfowl, wetlands, or any other resource depends upon federal recognition of the Tribes' authority to participate. Federal acts such as the Dingell-Johnson

Sports Fisheries Enhancement/Wallop-Breaux Amendment and Pittman-Robertson Wildlife Enhancement Act have demonstrated what oversights in Congressional language can do to retard the development of Tribes and their resource management capabilities. Continued oversight in upcoming legislation will not only impact the Tribes, but must of necessity, impact the country's resources as well. We believe that the failure to incorporate meaningful Tribal involvement into national legislation language fails to uphold the federal trust responsibility that the U.S. Government has assumed.

The Native American Fish & Wildlife Society, as a professional Tribal technical organization, is most interested in assisting Congress and its Committees in developing the mechanisms for Tribal participation in the bio-political process. Our Board of Directors, professional members, and national staff have the collective experience to support such planning and development at all levels of Tribal management. This testimony reflects the concerns that the Indian people of this country have with respect to the resources of the country and the role that they must ultimately play in the management that is essential to the retention of their culture and heritage.

Thank you for your consideration of our concerns.

Respectfully submitted,

Dewey Schwalenberg

Dewey Schwalenberg
Executive Director

Attachments:

1. Narrative Justification
2. NAFWS Proposed Amendments
3. Circle of Flight

ATTACHMENT 1

NATIVE AMERICAN FISH & WILDLIFE SOCIETY

NARRATIVE JUSTIFICATION
for Revisions to H.R. 2587
NORTH AMERICAN WETLANDS CONSERVATION ACT

The Native American Fish & Wildlife Society represents the fish and wildlife interests of Tribal Governments throughout the country. Those interests currently include in excess of 90 million acres of land, much of it prime wetland and waterfowl habitat. Tribal Governments are actively involved in wetland and waterfowl management, even going so far as to participate in the North American Waterfowl Management Planning process. Tribal Governments need to be included as well in the national planning process that the North American Wetlands Conservation Act represents. Tribes, by virtue of the fact that the Federal Government has a trust responsibility to them and an established government-to-government relationship with them, have an inherent right to be co-management participants in the management provisions included in H.R. 2587 "The North American Wetlands Conservation Act."

Along with the expressed management objectives in H.R. 2587, Tribes have additional management concerns for their members' subsistence, ceremonial, medicinal and religious uses of these resources. In addition, waterfowl and migratory birds that currently are produced or sheltered within Tribal lands disperse throughout the International communities of Canada, the United States and Mexico for the benefit of all parties affected by H.R. 2587.

In recognition of the Indian Tribal role in the cooperative management responsibilities of all concerned, we feel that H.R. 2587 needs to be substantially renovated to include substantive Tribal language. The enclosed (Attachment #1) is a listing of our recommendations as to the language changes that would be required to fully affect a meaningful relationship with the Tribal Governments who will implement the objectives of H.R. 2587.

Please note that we feel anything less than one full appointed position representing the Native American interests on the North American Wetlands Conservation Advisory Committee would constitute a breach of the government-to-government relationship supported by Congress and the current Administration.

Hopefully our suggestions for full involvement by Tribal Governments and their management entities will be incorporated into Bill H.R. 2587 prior to its approval. Should this occur, we feel that the sovereignty, jurisdictional, and economic incentives which are represented therein will induce a substantial amount of participation by Tribes across the country. Such involvement will undoubtedly mean dramatic increases in wetland preservation, protection and management.

Attachment # 2

NAFWS Proposed Amendments to the North American Wetlands Conservation Act (H.R. 2587, S. 804)

Section 2(a) should be amended by:

(a) Page 2, Line 6, delete "and" from "and aesthetic values;"

(b) Page 2, Line 7, insert "and medicinal, subsistence, and ceremonial values" after "and aesthetic values; "

(c) Page 3, Line 4, delete "and" from "Mexico, and other;"

(d) Page 3, line 5 insert "and tribal governments" after "other countries".

(e) Page 3, line 19 insert "and Indian Tribes" after "United States;"

(f) Page 3, Line 19 delete "and" from "and the United States;"

(g) Page 4, line 14 insert "Indian Tribes" after "governments,"

Sect. 2(b)

(a). Page 4, line17 insert "Indian Tribes" after "public agencies"

(b). Page 5 line 6 insert "Indian Tribes" after ""Mexico"

Sect. 3

(a) Page 7,line 19 add Sect. 3(11) stating "The term "Indian Tribe" means any Indian Tribe or band which has fish, wildlife, or water rights and which has a governing body recognized by the Secretary of the Interior""

Sect 4(a)

(a) Page 8, line 19. add "One such appointment will be an individual representing Indian Tribal wetland conservation and preservation interests."

Sect. 5(a)

(a) Page 12, line 11 add "Indian Tribes" after "public agencies".

Sect.6(a)

(a) Page 15, line 2. add" For the purposes of Indian Tribes, real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System "after "Refuge System."

Sect.6(b)

(a) Page 15, line 25. insert "Indian Tribes" after "public agencies"

Sect 8(a)

(a) Page 19, line 8 insert "Indian Tribes will be eligible to apply for and receive 10 percent of the funds available under this section." after " this Act."

Sect. 8(c)

(a) add at end "except that Indian Tribes may use the provisions of P.L. 93-638 "Indian Self Determination Act" to meet matching fund provisions and requirements." after "programs".

Sect.11(a)

(a) Page 22, line 11. add "Tribe" after "Federal, State"

Sect.11(b)

(a) Page 22, line 19. add "Tribe" after "Federal, State"

AUG [illegible]

International Association of Fish and Wildlife Agencies
(Organized July 20, 1902)
Hall of the States
444 North Capitol St. NW, Suite 534, Washington, DC 20001 (202) 624-7890
R. Max Peterson, Executive Vice President
I.A.F.W.A.

August 17, 1989

Honorable Gerry E. Studds, Chairman
House Subcommittee on Fisheries
and Wildlife Conservation
and the Environment
1334 Longworth House Office Building
Washington DC 20515

Dear Mr. Chairman:

Attached please find responses to the questions contained in your letter of July 26, 1989. The International Association of Fish and Wildlife Agencies appreciates the attention of you and your staff to the North American Wetlands Conservation Act and, like you, would like to see the legislation move smoothly and rapidly through the Congress.

Again, we thank you for allowing the Association to testify on this important legislative initiative. We would be happy to answer any other questions that arise.

Sincerely,

R. Max Peterson
Executive Vice President

Enclosure

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Executive Committee 1988-89

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R. Max Peterson
International Association of Fish and Wildlife Agencies
17 August 1989

Responses to questions from Rep. Gerry Studds, Chairman, Subcommittee for Fisheries and Wildlife Conservation and the Environment, on the North American Wetlands Conservation Act (H.R. 2322, H.R. 2587).

1. Both H.R. 2322 and H.R. 2587 would authorize the use of Federal funds for the acquisition of lands that will then be given for management purposes to private groups. If we assume that there will be public access to these lands and that there might be a fee charged for that access, should we ensure (1) that the access is non-discriminatory and (2) that the fees are returned to the Federal government, possibly for additional land acquisition?

Response The Association believes that appropriate and compatible access to lands acquired under the North American Wetlands Conservation Act (NAWCA) must be non-discriminatory. However, this does not preclude closure of these areas during critical periods such as the spring nesting season for waterfowl and other migratory birds.

The Association believes that fees, if charged, should be used for operation and management costs associated with an area or for additional project acquisition, enhancement, or management. Any fees charged would undoubtedly cover only a small portion of the operations and management costs of an area.

2. Both H.R. 2322 and H.R. 2587 would authorize approximately $25 million for the acquisition and restoration of wetlands. That is equal to approximately a third of the current land acquisition budget of the Fish and Wildlife Service. Is it your expectation that funding under this bill will be in addition to -- and not in lieu of -- the current land acquisition funds?

Response It is the belief of the Association that the $25 million for acquisition, restoration, and enhancement under the NAWCA would be in addition to current land acquisition funds. The Association, and other supporters of the NAWCA, will strive to make sure that this is, in fact, done. To do otherwise would be counterproductive to current wetlands habitat protection efforts.

3. The cost sharing requirements in the bills provide for a 50% Federal match for acquisition in the U.S. and a 75% match for acquisition in Canada. What would be the effect of requiring a 50% match for acquisition in both the United States and Canada? Wouldn't this help us get the most value for our Federal dollars?

Response A 50% Federal match of funds for Canadian projects would stretch Federal dollars as far as possible. The Association believes that this is an acceptable condition. This does not affect the commitment of a 75% U.S. (Federal, State, and private combined) contribution for Canadian projects as outlined in the North American Waterfowl Management Plan.

This was included in the Plan because, for waterfowl, Canada produces 75% of North American waterfowl, while the U.S. harvests 75% of North American waterfowl.

4. Both H.R. 2322 and H.R. 2587 would require that at least 50% of the funds be spent in Canada and Mexico. What are the advantages of establishing this percentage in the law rather than leaving it to the judgement of the Migratory Bird Conservation Commission or the Commission established under the Davis bill? Might there be some years when more valuable properties are available in the United States, but because of this provision we will be forced to spend the funds in Canada? Might it not be better to make the 50% standard a goal instead of a mandate?

Response The Association believes that at least 50% of the funds derived from the NAWCA should be spent in Canada. Many of the species, both game and non-game, that would be protected by the NAWCA are produced in Canada. As mentioned earlier, many of the benefits from these species, both hunting and non-consumptive, are enjoyed in the U.S. Consequently, the Plan calls for 75% of funds for Canadian projects to come from the U.S. The Association believes that, absent a minimum percentage, the commitment to fund important habitat projects in Canada would never be realized, to the detriment of wetlands conservation efforts in the U.S. and Canada. We believe that funds from other sources are available to handle the specific situation mentioned, that of special or urgent needs that arise. The Land and Water Conservation Fund comes to mind as does the very flexible efforts of groups such as The Nature Conservancy. To make the 50% standard a goal, rather than a mandate, would diminish from the legislation's long-term commitment to wetland habitat in Canada. Additionally, the 50-70% range provides an important lever to encourage Canadian funding sources.

If more flexibility is desired, a 40% minimum with a clear objective of 50-70% within a 5 year period might be an acceptable alternative. However, the Association remains concerned that any lowering of the minimum percentage of funds to be used in Canada and Mexico will reduce spending on wetland conservation projects, particularly in Canada, vital to the protection of North American migratory wildlife.

The Nature Conservancy

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August 16, 1989

Congressman Gerry E. Studds
Chairman
Subcommittee on Fisheries and
Wildlife Conservation and the
Environment
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

Dear Congressman Studds,

Thank you for giving me the opportunity to respond to the questions you have raised about the North American Wetland Conservation Act. Please find enclosed The Nature Conservancy's response to your questions. Should we be able to provide any additional information about this bill please do not hesitate to contact us.

Your support for this important piece of wetland conservation legislation is greatly appreciated.

Sincerely,

Tom Massengale

Thomas M. Massengale
Vice President
Major Program Development

TMM:bs

Enclosure

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Recycled Paper

North American Wetlands Conservation Act

Proposed Legislation to Implement The North American Waterfowl Management Plan

Questions from Congressman Gerry E. Studds

1. Both H.R. 2322 and H.R. 2587 would authorize the use of Federal funds for the acquisition of lands that will then be given for management purposes to private groups.

Question

If we assume that there will be public access to these lands and that there might be a fee charged for that access, should we encure (1) that the access is non-discriminatory and (2) that the fees are returned to the Federal government, possibly for additional land acquisition?

Answer

The Nature Conservancy supports the principle of nondiscriminatory access for areas acquired in outright fee by state agencies or private organizations, provided only that the levels and types of public activities on the property do not diminish the biological values for which the property was acquired. The Nature Conservancy does not feel that purchases of conservation easements or other less than fee acquisition should be required to carry the same nondiscriminatory access obligations and constraints as fee purchases.

The Nature Conservancy does not believe that fees should be returned to the Federal government for several reasons. First, in most cases, any fees charged could typically be used to offset the actual management of the land to benefit waterfowl and other wetland dependent species. Secondly, the cost of developing an administrative structure to collect the fees for return to the Federal government would probably exceed the value of the fees collected.

2.

Question

Both H.R. 2322 and H.R. 2587 would authorize approximately $25 million for the acquisition and restoration of wetlands. That is equal to approximately a third of the current land acquisition budget of the Fish and Wildlife Service. Is it your expectation that funding under this bill will be in addition to--and not in lieu of--the current land acquisition funds?

Answer

It is The Nature Conservancy's expectation that the $25 million in increased authorization would be in addition to current acquisition funds.

3. The cost sharing requirements in the bills provide for a 50% Federal match for acquisition in the U.S. and a 75% match for acquisition in Canada.

Question

What would be the effect of requiring a 50% match for acquisition in both the United States and Canada? Wouldn't this help us get the most value for our Federal dollars?

Answer

As The Nature Conservancy understands the legislation, the cost-sharing requirements in both House and Senate bills provide for a 50% Federal match for acquisition in the U.S. and 75% match of the total U.S. commitments for acquisition in Canada. The NAWMP calls for the U.S. to provide 75% of the total Canadian project costs. The bills assume that the Canadians would cover 25% of the costs of each Canadian project. Therefore, the maximum Federal commitment for Canadian projects, under the existing bills is 56% or 75% x 75%. Private and state U.S. sources and Canadian sources would therefore provide a match of up to 44%.

In our opinion, changing the legislation to a straight 50% matching requirement would simplify the formula, reduce confusion, and increase the return on the Federal investment by 6% (56%-50%).

4. Both H.R. 2322 and H.R. 2587 would require that at least 50% of the funds be spent in Canada or Mexico.

Question

What are the advantages of establishing this percentage in the law rather than leaving it to the judgement of the Migratory Bird Conservation Commission or the Commission established under the Davis bill?

Question

Might there be some years when more valuable properties are available in the United States, but because of this provision we will be forced to spend the funds in Canada?

Question

Might it not be better to make the 50% standard a goal instead of a mandate?

Question

What are the advantages of establishing this percentage in the law rather than leaving it to the judgement of the Migratory Bird Conservation Commission or the Commission established under the Davis bill?

Answer

While The Nature Conservancy has been a major figure in the development and implementation of the NAWMP in the U.S. we have not been involved in the discussions between the U.S. and Canada with respect to the Plan. Given this fact, we are pretty much in the dark when it comes to appreciating what needs to be done either to meet our commitment to Canada or to induce Canada to meet their commitments. In discussion with other NAWMP participants, including Ducks Unlimited and the National Fish & Wildlife Foundation, we have been led to believe that some guaranteed minimal amount of Federal funds needs to be available for use in Canada in order to convince the Canadians that we are committed to a sustained participation in Canadian projects. We accept that this position has merit.

We also believe there is merit to the argument that the Migratory Bird Commission or new commission should have the flexibility to take advantage of the most important wetland conservation opportunities available in a given year regardless of their location.

Given these circumstances we suggest that the Committee establish language in the bill that sets a required floor for Canadian project funding (at 33-40%) but states clearly that the goal is to insure that 50% of the funds go to Canadian projects.

AUG 22 1989

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August 18, 1989

The Honorable Gerry Studds
Chairman
Subcommittee on Fisheries, Wildlife
Conservation and the Environment
Room 1334, Longworth House Office Bldg.
Washington, D.C. 20515

Dear Chairman Studds:

I would again like to thank you for the opportunity to testify on the legislation to implement the North American Waterfowl Management Plan.

Pursuant to your request, I am pleased to respond to the additional questions you have provided me. I trust this information will be useful to the members of the Committee during your consideration of this important legislation.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

John F. Smolko, Jr.

John F. Smolko, Jr.
Director of Federal Relations

cc: Congressman Robert Davis

Questions for Mr. John Smolko
Ducks Unlimited, Inc.

1. The National Wildlife Federation's testimony suggested that this legislation be modified to address more fully the needs of non-game birds. Specifically, it proposes that the Fish and Wildlife Service be directed to identify land acquisition priorities for non-game birds, and to try to establish international agreements -- modeled after the North American Plan -- for the protection of their habitat. What is your reaction to that proposal?

2. Both H.R. 2322 and H.R. 2587 would authorize the use of Federal funds for the acquisition of lands that will then be given for management purposes to private groups.

o If we assume that there will be public access to these lands and that there might be a fee charged for that access, should we ensure (1) that the access is non-discriminatory and (2) that the fees are returned to the Federal government, possibly for additional land acquisition?

3. Both H.R. 2322 and H.R. 2587 would authorize approximately $25 million for the acquisition and restoration of wetlands. That is equal to approximately a third of the current land acquisition budget of the Fish and Wildlife Service. Is it your expectation that funding under this bill will be in addition to -- and not in lieu of -- the current land acquisition funds?

4. An article in the December issue of Ducks Unlimited's magazine makes a strong case that agricultural pesticides are toxic to waterfowl. The testimony of the National Wildlife Federation suggested several means of addressing this problem, ranging from placing restrictions on the use of pesticides that are toxic to waterfowl to requiring the Fish and Wildlife Service to evaluate the impacts of agricultural pesticides on waterfowl, and to develop recommendations on how to minimize those impacts. What is your reaction to these suggestions?

5. The cost sharing requirements in the bills provide for a 50% Federal match for acquisition in the U.S. and a 75% match for acquisition in Canada.

o What would be the effect of requiring a 50% match for acquisition in both the United States and Canada? Wouldn't this help us get the most value for our Federal dollars?

6. Both H.R. 2322 and H.R. 2587 would require that at least 50% of the funds be spent in Canada or Mexico.

- What are the advantages of establishing this percentage in the law rather than leaving it to the judgement of the Migratory Bird Conservation Commission or the Commission established under the Davis bill?

- Might there be some years when more valuable properties are available in the United States, but because of this provision we will be forced to spend the funds in Canada?

- Might it not be better to make the 50% standard a goal instead of a mandate?

1. The North American Waterfowl Management Plan has set forth a blueprint for the protection and enhancement of wetland and nesting habitat. This habitat benefits waterfowl and many species of wildlife. As such, it would be inappropriate to legislatively direct the Plan's actions which should, instead, be based on biological factors.

To direct the Fish and Wildlife Service to undertake efforts to benefit other wildlife species for which they are responsible should be done in accordance with the governing authorities for these actions.

2. In the first question and now the second, land acquisition is repeatedly stressed. It is important to recognize that the Plan calls for action of more than just acquiring property. The legislation and the funds made available should not be viewed as another means of Federal acquisition.

Expenditures of Federal funds should be directed to projects which would provide appropriate and compatible public access. To assess fees for that access, in most instances would be logistically and administratively difficult. This would certainly be true for private groups.

3. Again, funds made available under the legislation are not strictly for land acquisition and should not be considered as another Federal acquisition program. Accordingly, these funds should bare no relationship to other Federal programs for budgetary purposes. It is imperative, though, that the Plan's activities be coordinated with and not duplicated by other Federal, State and private activities.

4. There is no question that pesticides have extremely deleterious affect on waterfowl and all wildlife. The data available overwhelmingly supports this.

The Plan recognizes that many actions will be necessary to restore waterfowl to their previous levels. Such actions should be taken by the organizations and agencies best equipped to carry out those actions. In the case of pesticides, both the Agriculture Department and Fish and Wildlife Service have been doing extensive research which must continue. Restrictions on pesticide use through the appropriate agency, as was initiated in FIFRA last year, is the better way to deal with issues such as this as opposed to trying to mold the Plan to be the solution for all problems.

5. The Plan recognizes that roughly 75% of the habitat work which is necessary is located in Canada. Accordingly, the Plan suggests that 75% of the funds for this work come from the U.S.

The legislation would limit the Federal contribution to 75% of the total U.S. contribution and makes an assumption, since Canadian and Mexican actions can not be legislated, that these countries would contribute the other 25% of the total amount. Making this assumption, the highest Federal contribution is 56% (75% x 75%) of total project cost. Language clarifying this intent may be appropriate.

6. The legislation sets an upper (70%) and lower (50%) limit on the amount of funds to go to Canada and Mexico. As I stated in my testimony, it is essential that the legislation establish a minimum annual contribution for projects in these countries.

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